1434.

SUPREME COURT OF THE UNITED STATES.

No. 187.

THE UNITED STATES, APPELLANTS,

vs.

THOMAS CALLENDER'S WIDOW AND HEIRS & AL.

APPEAL FROM THE DISTRICT COURT UNITED STATES FOR THE DISTRICT OF LOUISIANA.

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UNITED STATES DISTRICT COURT,
District of Louisiana.

CALLENDER and al. vs. THE UNITED STATES } No. 129.

Be it remembered, that heretofore, to wit, on the sixteenth day of June, in the year of our Lord one thousand eight hundred and forty-six, Ann M. Callender and others, by their attorney, L. Janin, esqr., came into the office of the clerk of the United States district court for the district of Louisiana, and filed their petition; which is in the words and figures following, to wit:

Petition.

To the honorable district court of the United States for the district of Louisiana.

The petition of Ann M. Callender, Elizabeth Callender, Christopher G. Callender, and Stanhope Callender, of the State of New York, and Frances Callender, the wife of Thomas Slidell, and Caroline Callender, the wife of Edward Ogden, of the State of Louisiana, said petitioners being the widow and heirs of the late Thomas Callender; of Sidonia Pierce Lewis, wife of Peter K. Wagner, John Lawson Lewis, Louisa Maria Lewis, Theodore Lewis, Eliza Cornelia Lewis, Alfred Hampden Lewis, Algernon Sidney Lewis, George Washington Lewis, Benjamin Franklin Lewis, and of Joshua Lewis, a minor, herein represented by Eliza Magioni, the widow of Alfred Jefferson Lewis, his mother and natural tutrix, all of the State of Louisiana; the said petitioners herein acting as the heirs of the late Joshua Lewis and America Lawson, his wife, and also the co-heirs with Mary P. Bowman, of Columbus Lawson; of Mary P. Lawson, the wife of John Bowman, of the State of Tennessee, co-heir with the last above named petitioners, with Columbus Lawson; of Catharine Pauline Baker, the widow of Blaize Cenas, and now the wife of William Christy, and of Hilary B. Cenas, Augustus Henry Cenas, and Augustus St. John, Richard Brenen Blanché, and George Christy, the last four being minors, and herein represented by Pauline St. John, the widow of Peter Cenas, their mother and natural tutrix, all of the State of Louisiana; of Jonathan Montgomery and Michel Musson, the testamentary executors of the late William Nott, of the State of Louisiana, and of the heirs of Nathaniel Amory, of the State of Rhode Island, respectfully shows, that on the 20th June, 1796, the Baron de Carondelet, of the province of Louisiana, made a grant to the Baron de Bastrop of a tract of land lying on the waters of the Ouachita river, being of the extent of 12 leagues square.

That the boundaries of said land were designated on a sketch or plan

made by Charles Laveau Trudeau, the surveyor general of the province of Louisiana, which plan was annexed to the original grant.

That the original terms and circumstances of said grant will appear from the documents relating thereto, translated and printed on pages 950 to 954 of the volume entitled "Laws of the United States, &c., respecting the public lands," prepared in conformity with the resolution of the House of Representatives of the United States, of the 1st March, 1826, by the clerk thereof, and printed at Washington in the year 1828, by Gales & Seaton, to which the petitioners beg leave to refer.

That said claim was filed with the commissioners for the western district of Louisiana, who made an adverse report thereon, principally on account of the absence of the necessary evidence.

That, thereafter, the parties interested in said grant made constant efforts to obtain a decision on the same by Congress, and that, although favorable reports were frequently made upon it, Congress never acted upon it definitively; that the petitioners, as the legal representatives of Thomas Callender, Joshua Lewis, Columbus Lawson, Blaize Cenas, William Nott, and Nathaniel Amory, all of whom are now deceased, are the owners of various portions of said grant, which were required as follows, to wit:

That Abraham Morehouse, having become the owner of a large portion of said grant, sold on the 14th May, 1813, by an act passed before John Lynd, then a notary public in the city of New Orleans, 10,000 acres of the said land to the late Columbus Lawson and Joshua Lewis, which were to be selected by them in the manner specified in said act.

That the late Edward Livingston having also acquired an extensive part of said grant sold by an act passed before B. Van Pradelles, then a notary public in the city of New Orleans, on the 30th March, 1808, 10,000 acres of his said Livingston's portion of said grant, to be laid off in a square beginning on Morehouse's line, at the corner of the tract of 5,000 acres conveyed by said Livingston to John Hughes, and having one side on Morehouse's line joining and binding.

That by another act passed on the 24th December, 1810, before George T. Rost, then a notary public in the city of New Orleans, the said Edward Livingston sold to Thomas Callender, Nathaniel Amory, and William Nott, then trading in the city of New Orleans under the style and firm of Amory, Callender & Co., 40,000 acres of said land, bounded by Andry Dupuy Nancarrow, David Williamson, and said Edward Livingston.

That by an act of Congress, approved on the 17th June, 1844, entitled "An act to provide for the adjustment of land claims, &c.," the petitioners are authorized to submit their claims to said lands to this honorable court for inquiry and adjudication.

The petitioners aver that their said claims on the Bastrop grant are good and valid, and entitled to confirmation according to the purport and tenor of the aforesaid act of Congress.

Wherefore petitioners pray that the United States of America be cited, through their district attorney for the State of Louisiana, and that their claims to the lands respectively owned by them as aforesaid be declared valid and confirmed.

And petitioners further pray for their costs and all such relief as the nature of the case may require, and to justice and equity may appertain.

(Signed) L. JANIN, *of counsel.*

And afterwards, to wit, on the 22d day of June, 1846, the following citation was issued from the clerk's office:

Citation.

UNITED STATES OF AMERICA:

The President of the United States, to the marshal for the district of Louisiana, greeting:

You are hereby commanded to summon S. W. Downs, U. S. district attorney, to appear before the honorable the judge of the district court of the United States, for the district of Louisiana, at a district court to be holden on the first Monday of August, 1846, then and there to answer a petition in chancery, filed against the United States, wherein Ann McCallender and others are petitioners, and said United States is defendant. Herein fail not, and have you then and there this writ, with your endorsement thereon, how you have executed the same.

Memorandum.—The defendant is to enter an appearance in the above cause, in the clerk's office, on or before the first Monday of August, 1846, otherwise the petition may be taken pro confesso.

Witness the honorable T. H. McCaleb, judge of the said court, this 22d day of June, in the year of our Lord one thousand eight (SEAL.) hundred and forty-six, and the 70th year of American independence.

(Signed) L. E. SIMONDS, *Dy. clerk.*

Marshal's return thereon.

Received June 22d, 1846, and on the same day I served a copy of the within citation and petition on S. W. Downs, esq., U. S. district attorney, in person. Returned June 22d, 1846.

(Signed) WM. E. WELLS,
U. S. Deputy Marshal.

And afterwards, to wit, on the 11th of November, A. D. 1846, the following answer of Thomas J. Durant, esq., United States attorney for the district of Louisiana, was filed in the clerk's office:

Answer.

CALLENDER ET AL.
vs.
UNITED STATES.

In the district court of the United States, for the district of Louisiana.

The answer of the United States, the defendants in the above named

cause, respectfully shows, that they deny all and singular the facts and allegations in plaintiffs' petition contained.

Wherefore, they pray that they may be hence dismissed, and that plaintiffs be condemned to pay all costs.

(Signed) THOMAS J. DURANT,
Attorney U. S.

And afterwards, to wit, on the eighteenth day of May, A. D. 1848, the following amended petition was filed of record in the clerk's office:

Amended petition.

To the honorable Theodore H. McCaleb, judge of the district court of the United States, for the district of Louisiana:

The amendatory petition of Ann M. Callender, Elizabeth Callender, Christopher G. Callender, and Stanhope Callender, of the State of New York, and Frances Callender, wife of Thomas Slidell, and by him herein duly assisted, and of Caroline Callender, wife of Edward Ogden, and by him herein duly assisted, residents of the State of Louisiana, said petitioners being the legal representatives and heirs of the late Thomas Callender; of Sidonia Pierce Lewis, wife of Peter K. Wagner, and by him herein assisted, John Lawson Lewis, Louisa Maria Lewis, Theodore Lewis, Algernon Sidney Lewis, George Washington Lewis, Benjamin Franklin Lewis, and of Joshua Lewis, a minor, herein represented by Eliza Magioni, the widow of Alfred Jefferson Lewis, and mother and natural tutrix of said Joshua, all citizens and residents of the State of Louisiana, the said petitioners herein acting as the heirs of the late John Lewis and America Lawson, his wife, and also as the co-heirs with Mary P. Bowman, of Columbus Lawson, of Mary P. Lawson, wife of John Bowman, of the State of Tennessee, co-heir with the last above named petitioners, with Columbus Lawson; of Catherine Pauline Baker, the widow of Blaize Cenas, and now the wife of William Christy, and by him herein assisted, and of Hilary B. Cenas, Augustus Henry Cenas, and Augustus St. John Cenas, Richard Brenen Cenas, Blanche Cenas, and George Christy Cenas, the last four being and herein represented by their mother and natural tutrix, Pauline St. John, widow of their father and her lawful husband, Peter Cenas, all citizens of the State of Louisiana; of Jonathan Montgomery, acting testamentary executor of the late William Nott; and of Mary Preble Amory, widow and sole testamentary executrix and universal legatee of Nathaniel Amory, deceased, said Mary being now a citizen of the State of Massachusetts, respectfully showeth:

That on or about the 16th day of June, 1846, your petitioners filed in this honorable court their original bill or petition against the United States of North America, and thereby claimed to be lawful owners of certain portions of a tract of land lying on the waters of the river Ouachita, and bayous Bartholemew and Siard, in the province of Louisiana, being the same which, in or about the years 1796 and 1797, was conceded by the Baron de Carondelet, then governor general of Louisi-

ana, as representative of the King of Spain, to the Baron de Bastrop, and which is commonly known as the "Bastrop grant;" to which bill said defendants answered by filing their general denial.

Now, your petitioners, for greater certainty, and by way of supplement and amendment to said original bill, do specify and show, that the land so granted to the said Baron de Bastrop is the same more fully described and referred to in a certain copy of the title deeds thereof, executed and certified by Don Vicente Fernandez Fejeiro, formerly commandant and ex officio notary public at and for the post and district of Ouachita, in the province aforesaid; said copy bearing date at Ouachita on or about the 24th day of January, in the year 1804, and likewise more fully described and referred to in a copy of the original plan of survey of said land, made by Don Carlos Laveau Trudeau, formerly surveyor general of the province aforesaid, from the original plan thereof executed by himself; said copy bearing date New Orleans, the 3d day of December, 1806; all which copies are on file in the suit entitled "Mayor, Aldermen, and Inhabitants of Philadelphia and New Orleans vs. The United States," No. 41 on the land docket of this honorable court, all which your petitioners pray may be taken as part of this bill, and as thereto annexed.

Your petitioners farthermore represent, that, on or about the 26th or 27th day of December, 1806, the original title-deeds of the aforesaid "Bastrop Grant," corresponding to the copies thereof above referred to, together with many other muniments of said title, were delivered into the possession and custody of one Hatch Dent, then deputy register for the United States land office at Opelousas, or Rapides, in the then Territory of Louisiana, and duly authorized by law to receive and receipt therefor, as by the official receipt of said Dent, on file in the aforesaid suit, No. 21 of the records of this honorable court, will more fully appear; and that various other muniments of said title and important documents, relative thereto and supporting the same, were likewise, at various times, deposited in the land office aforesaid, especially a certain petition of the above named Bastrop to the said Baron de Carondelet, dated 10th June, 1797, signed by said Bastrop, and granted by said Carondelet, by decree of the same date written thereon, a copy of which is likewise on file and record in said suit No. 21, and a translation thereof also.

And your petitioners farthermore show, that by time, fires, thefts, negligence, or other causes or casualties to them unknown, and beyond their control, all said original documents have been irrevocably mislaid, lost, or destroyed, without fault of your petitioners; and that, although strict and careful search and inquiry therefor has been made from time to time, and every diligence used to recover the same, they remain still undiscovered by, and lost to, your petitioners.

Your petitioners farthermore represent, that, by act and deed executed before Don Vicente Fernandez Fejeiro, commandant and notary aforesaid at Ouachita, on or about the 23d day of January, 1804, a copy of which is on file in said suit No. 21, and prayed to be taken as

hereto annexed, the said Baron de Bastrop sold and conveyed to one Abraham Morehouse two undivided third parts of the aforesaid "Bastrop grant." That subsequently, by act and deed duly passed and executed before Pedro Pedesclaux, a notary public at the city of New Orleans, and bearing date the 29th day of May, 1804, a copy whereof is on file in said suit No. 21, and prayed to be considered as hereto annexed, the said Baron de Bastrop sold and conveyed to Edward Livingston the remaining third part of said "Bastrop grant." That said Livingston, by act before said Pedesclaux, notary, &c., date 24th February, 1805, sold and conveyed to one Charles Lynch, on certain conditions therein recited, the third part of said grant, which he, said Livingston, had acquired from said Bastrop, of which deed a copy is hereto annexed. That said conveyance to said Lynch was afterwards cancelled and annulled by judgment of the superior court for the Territory of Orleans, rendered at New Orleans on or about the 3d day of March, 1806, in the suit of Edward Livingston vs. Charles Lynch; the rights of third persons being by said judgment saved and reserved, as by a copy of the record of said suit hereto annexed will more fully appear. That afterwards, by act and deed executed before P. Pedesclaux, notary public at the city of New Orleans, under date of the 14th day of May, 1805, a copy of which is hereto annexed, the said Morehouse and Livingston entered into a partition, and conveyed, released, and set over to each other certain specific portions of said "Bastrop grant," whereby said Morehouse became entitled to four-tenths, and said Livingston to six-tenths thereof, according to a certain plan of survey and partition thereof; a copy of which, marked as document C, is on file in said suit No. 21, and prayed to be taken as hereto annexed.

That, under said primary conveyances, your petitioners, Ann M. Callender and her co-heirs, and your petitioner, executor of Wm. Nott, and your petitioner, Mary P. Amory, hold by other conveyances as follows, viz: By act and deed, dated 9th February, 1805, said Charles Lynch sold and conveyed about 45,000 acres of said Bastrop grant to Jean Baptiste Rivière, as by copy thereof, hereto annexed and made part of this petition, will more fully appear. That, upon the death of said Rivière, his widow and executrix, Marie Révé Anne Donnezan, by act and deed also before said P. Pedesclaux, notary public, sold and conveyed 40,000 acres thereof to said Edward Livingston, its former proprietor. That by act and deed before the same notary, under date of 21st December, 1810, said Livingston conveyed said 40,000 acres to Amory, Callender & Co., as heretofore recited; and that, by act before Jules Mossy, notary public, dated New Orleans, 23d January, 1838, a partition took place between Nathaniel Amory, the heirs of William Nott, and the heirs of Thomas Callender, by which each of said three parties, appearing, became entitled to 13,330 acres or arpents of the aforesaid 40,000, according to a copy of a plan or sketch of survey to said act annexed; all which matters will, by the copies of said various conveyances hereto annexed as part of this petition, more fully appear.

That your petitioner, Sidonia P. Lewis, and her co-heirs, and your

petitioner Mary P. Lawson, hold their titles as follows, viz: That by act and deed, dated 14th May, 1813, before John Lynd, notary public, at New Orleans, the aforesaid Abraham Morehouse conveyed to Joshua Lewis and Columbus Lawson 10,000 acres of land in said "Bastrop grant," which, on demise of said vendees, was inherited by your petitioners, as by the annexed copy of said [deed] will appear.

That your petitioners, Catherine P. Baker and her co-heirs aforesaid, derive their title as follows, viz: That by act and deed, executed before B. Van Pradelles, notary public, at New Orleans, and bearing date 30th of March, 1808, and by another deed dated 9th March, 1809, before P. F. S. Godefroy, notary public, the aforesaid Livingston sold and conveyed to Blaize Cenas 10,000 certain acres of land, lying within and forming a portion of said "Bastrop grant," as by copies of said acts hereto annexed will more fully appear, which land, on the demise of said Blaize, passed to your petitioners as his legal heirs.

Your petitioners farthermore represent, that they are all seized and possessed of the several tracts by them respectively claimed as lawful owners thereof; that no person or persons claim the same, or any part thereof, by a different title from that of your petitioners, or hold possession of any part thereof, otherwise than for them, or by their lease; and they furthermore represent, that if any conditions were annexed to the said "Bastrop grant" by the aforesaid Baron de Carondelet, and to be performed by said Baron de Bastrop, the same have been duly fulfilled by said Bastrop, or if not fulfilled by him, that he was prevented by the act or order of the granter, the Government of Spain in Louisiana, from fulfilling the same.

Your petitioners pray that the several deeds, plans, and documents, above recited and referred to, be taken and considered as part of this petition; that the validity of their titles and claims may be inquired into and decided by your honor, and that a decree be rendered in their favor declaring them the true and lawful proprietors of the aforesaid tracts of land by them respectively claimed under the "Bastrop grant," and forever quieting them as against the United States in their possession and ownership thereof, and that all other general relief be accorded them in the premises, *and* the nature of their case may require, or to equity may belong.

(Signed) H. H. STRAWBRIDGE,
Solicitor for Mary P. Amory.

(Signed) L. S. JANIN, *of counsel.*

Documents annexed to amended petition.

Document marked C, being an act of sale bearing date 24th January, 1805, by Edward Livingston to Charles Lynch.

On this twenty-fourth day of January, in the year of our Lord one thousand eight hundred and five, and in the twenty-ninth of American independence:

Before me, Peter Pedesclaux, notary public, in and for the city of

New Orleans, capital of the territory of Orleans, duly commissioned and sworn.

Appeared Edward Livingston of the said city, counsellor at law of the one part, and Charles Lynch, residing at Shelby county, in the State of Kentucky, now in this city, of the other part.

Which said party of the first part declared and agreed, that he had granted, bargained, and sold to the said part of the second part, his heirs, executors, administrators, and assigns, all the rights acquired by him, the said part of the first part, by virtue of two several acts of sale and transfer, passed in this office, the first on the third of April, one thousand eight hundred and four, between Joseph Faurie, attorney in fact for Charles P. Stephen Wante, and Messrs. Lauthois and Pitot, as well in their own names as representing other creditors of Ph. H. Neret, Baron of Bastrop; and the second on the twenty-ninth day of May, one thousand eight hundred and four, between P. H. Neret, Baron of Bastrop, and the said Edward Livingston, and also all the title whatever which he, the said Edward Livingston, may have or be entitled unto by virtue of an agreement entered into with the said Baron of Bastrop for his equitable right to the whole of the said patent at Ouachita, by virtue of an agreement recited in the articles to these presents annexed, between Lewis Dupuy, as attorney in fact for J. B. Rivière, the said P. H. Neret, Baron of Bastrop, and the said Edward Livingston; all which several acts the said Lynch declares to have read and understood, and to be therewith fully satisfied, and this said Livingston places the said Lynch in his stead and place, as to all the rights, covenants, and agreements made in the said several acts. It being the full intent and meaning of these presents that the said Lynch should be entitled to all the advantages, and be subject to all the duties, covenants, and payments which the said Livingston, before this act, was entitled or subject to, and no other; saving and reserving power to the said Livingston, his heirs and assigns, the undivided quantity of forty thousand acres, in the tract so conveyed to him by the said Baron of Bastrop; which the said Lynch covenants, as soon as the same can be divided, to release to the said Edward Livingston free from all incumbrances.

In consideration whereof, the said Lynch agrees to pay to the said Livingston the sum of thirty thousand dollars, payable by equal payment, with interest in one, two, and three years, for which he has this day executed thirty notes for one thousand dollars each, payable as aforesaid to the said Edward Livingston, or his order, and for the payment whereof the said Charles Lynch specially hypothecates and mortgages the said tract of land hereby conveyed to him, and all the other estate he may have or acquire in this territory.

And also the said Lynch agrees and promises to pay, as they become due, all the notes that have been executed by the said Livingston, by virtue of an agreement entered into and made at this office on the nineteenth day of this present month between the said Livingston, Joseph Faurie, as attorney for C. P. S. Wante, James Pitot for Lauthois & Pitot, and Stephen Zacharie, as attorney (by substitution of Henry Mes-

sonier) of the said Wante, as by the list at the foot of this agreement signed by the said parties; and also that he, the said Lynch, will pay to the commandant of the post at Ouachita all the fees and expenses that have accrued on an execution issued by the said Livingston, in the name of C. P. S. Wante, against the lands of the said Baron of Bastrop, so that the said Livingston and his representatives shall be indemnified from all suits, demands, or payments of the said notes or sums of money, or either of them.

And the said Livingston doth further promise, warrant, and agree, that if at any time the grant to the Baron of Bastrop for said lands shall be declared void, and the said Lynch or his representatives evicted therefrom, that then he will refund to the said Lynch all the moneys he may have received on the said notes so executed to him as aforesaid.

One note for $11,079 44/100, payable to Joseph Faurie on the 1st October, 1805; another for $3,585 44/100, payable to the same on same day; another, $3,585 44/100, payable to the same on the 1st October, 1806; another for $10,938 44/100, payable to the same on same day; another for $10,938 44/100, payable to the same on the 1st October, 1807; another, $10,938 44/100, payable to the same on same day of the year 1808; another for $10,938 44/100, payable to the same on the 1st October, 1809; another for $1,050, payable to James Pitot on the 6th October, 1805; another for $2,100, payable to the same and on the same day; another for $2,100, payable to the same and on the same day; another for $1,042, payable to the same on the twenty-first June, 1805; another for $2,085, payable to the same on same day; another for $2,085, payable to the same and on same day; another for $2,694 44/100, payable to the same on the 1st October, 1805; another for $3,629 72/100, payable to the same on same day.

In testimony whereof these presents are done and passed, at New Orleans aforesaid, on the day and year above written, in presence of John Baptiste Ramirez and Joachim Lozano, citizens here present.

(Signed) EDWARD LIVINGSTON,
CHS. LYNCH,
JEAN BAPTISTE RAMIREZ,
JOAQ'N LOZANO,
PETER PEDESCLAUX,
Not. Pub.

I certify the foregoing to be a true copy of the original act extant in my register, according to the laws and usages of this State.

In faith whereof I grant these presents, under my signature and the impress of my seal of office, at New Orleans, this eighteenth day of April, one thousand eight hundred and thirty-two.
[SEAL.]

(Signed) L. T. CAIRE, *Not. Pub.*

Record from the fifth district court of New Orleans.

STATE OF LOUISIANA,

Fifth district court of New Orleans:

EDWARD LIVINGSTON
vs.
CHARLES LYNCH, Andrew Burke, and James Johnson. } No. 624.

Petition filed 3d December, 1805.

To the honorable the judges of the superior court of the Territory of Orleans, humbly complaining, showeth unto your honors:

Your petitioner, Edward Livingston, of the city of New Orleans, counsellor at law, that on the third day of April, in the year of our Lord one thousand eight hundred and four, by notarial act in the office of Peter Pedesclaux, one of the public notaries, he entered into an agreement with Joseph Faurie, attorney in fact for Charles P. S. Wante, and Messrs. Lauthois and Pitot, as well in their own name as representing other creditors of P. H. Neret, Baron of Bastrop, for the assignment of a mortgage and other debts due by the said Baron of Bastrop, as by a copy of the said agreement to this petition annexed, in a certain schedule marked A, which your petitioner prays may be taken as part of this his petition, and to which, for greater certainty, refers, may appear.

And your petitioner farther shows, that on the day of , in the same year, a certain agreement was entered into and made between Lewis Dupuy, as attorney in fact for a certain J. B. Rivière, the said P. H. Neret, Baron of Bastrop, and your petitioner; a true copy whereof is also to this petition annexed, marked with the letter C, which your petitioner prays may be taken as part of this petition, and to which he, for greater certainty, refers.

And your petitioner further showeth unto your honors, that, after having entered into the said several agreements, a certain Charles Lynch applied himself to your petitioner to purchase an assignment of the rights acquired by the said several agreements above recited; and thereupon your petitioner, on the twenty-fourth day of January, in the year of our Lord eighteen hundred and five, before the notary aforesaid, entered into an agreement with the said Charles Lynch, in the words and figures following, that is to say:

In this twenty-fourth day of January, in the year of our Lord one thousand eight hundred and five, and in the twenty-ninth of American independence, before me, Peter Pedesclaux, notary public in and for the city of New Orleans, capital of the Territory of Orleans, duly commissioned and sworn, appeared Edward Livingston, of the said city, counsellor at law, of the one part, and Charles Lynch, residing at Shelby county, in the State of Kentucky, now in this city, of the other part; which said party of the first part declared and agreed, that he had granted, bargained, and sold, to the said *part* of the second part, his heirs, executors, administrators, and assigns, all the rights acquired by

him, the said *part* of the first part, by virtue of two several acts and transfer passed in this office; the first on the third of April, one thousand eight hundred and four, between Joseph Faurie, attorney in fact for Charles P. Stephen Wante and Messrs. Lauthois and Pitot, as well in their own name as representing other creditors of P. H. Neret, Baron of Bastrop; and the second on the twenty-ninth day of May, one thousand eight hundred and four, between P. H. Neret, Baron of Bastrop, and the said Edward Livingston; and also all the title whatever which he, the said Edward Livingston, may have, or be entitled unto, by virtue of an agreement entered into with the said Baron of Bastrop for his equitable right to the whole of the said patent at Ouachita, by virtue of an agreement recited in the articles to these presents annexed, between Lewis Dupuy, as attorney in fact for J. B. Rivière, P. H. Neret, Baron of Bastrop, and the said Edward Livingston; all which several acts the said Lynch declares to have read and understood, and to be therewith fully satisfied; and this said Livingston places the said Lynch in his stead and place as to all the rights, covenants, and agreement made in the said several acts; it being the full intent and meaning of these presents, that the said Lynch should be entitled to all the advantages, and be subject to all the duties, covenants, and payments which the said Livingston, before this act, was entitled or subject to, and no other, saving and reserving power to the said Livingston, his heirs and assigns, the undivided quantity of forty thousand acres in the tract so conveyed to him by the said Baron of Bastrop, which the said Lynch covenants, as soon as the same can be divided, to release to the said Edward Livingston, free from all incumbrances.

In consideration whereof the said Lynch agrees to pay to the said Livingston the sum of thirty thousand dollars, payable by equal payment, with interest, in one, two, and three years, for which he has this day executed thirty notes, for one thousand dollars each, payable as aforesaid to the said Edward Livingston, or his order; and for the payment whereof the said Charles Lynch specially hypothecates and mortgages the said tract of land hereby conveyed to him, and all the other estate he may have or acquire in this territory. And also the said Lynch agrees and promises to pay, as they become due, all the notes that have been executed by the said Livingston, by virtue of an agreement entered into, and made at this office, on the nineteenth day of the present month, between the said Livingston, Joseph Faurie, as attorney for C. P. S. Wante, James Pitot for Lauthois and Peters, and Stephen Zacharie, as attorney (by substitution of Henry Messonier) of the said Wante, as by the list at the foot of this agreement, signed by the said parties. And also that the said Lynch will pay to the commandant of the post at Ouachita all the fees and expenses that have accrued on an execution issued by the said Livingston in the name of C. P. S. Wante against the lands of the said Baron of Bastrop, so that the said Edward Livingston and his representative shall be indemnified from all suits, demands, or payments of the said notes or sums of money, or either of them.

And the said Livingston doth further promise, warrant, and agree, that if at any time the grant to the Baron of Bastrop for said lands shall be declared void, and the said Lynch or his representatives evicted therefrom, that then he will refund to the said Lynch all the moneys he may have received on the said notes so executed to him as aforesaid.

One note of eleven thousand seventy-nine dollars and eighty-four cents, payable to Joseph Faurie on the first October, one thousand eight hundred and five; another for three thousand five hundred eighty-five dollars and forty-three cents, payable to the same on the same day; another three thousand five hundred eighty-five dollars and forty-three cents, payable to the same on the first October, one thousand eight hundred and six; another for ten thousand nine hundred and thirty-eight dollars and sixty cents, payable to the same on the first October, one thousand eight hundred and nine; another one thousand and fifty dollars, payable to James Pitot on the sixth October, one thousand eight hundred and five; another for two thousand and one hundred [dollars,] payable to the same, and on same day; another for two thousand and one hundred [dollars,] payable to the same, and on same day; another for one thousand and forty-two dollars, payable to the same on the twenty-first June, one thousand eight hundred and five; another for two thousand and eighty-five [dollars,] payable to the same on same day; another for two thousand and eighty-five [dollars,] payable to the same, and on the same day; another for two thousand six hundred and ninety-four dollars and forty-eight cents, payable to the same on the first October, one thousand eight hundred and five; another for three thousand six hundred and twenty-nine dollars seventy-two cents, payable to the same on same day.

In testimony whereof these presents are done and passed at New Orleans aforesaid, on the day and year above written, in presence of John Baptiste Ramirez and Joachim Lozano, citizens here present.

EDW. LIVINGSTON,
CHS. LYNCH,

JOAQN. LOZANO,
JOHN BAPTE. RAMIREZ.

PETER PEDESCLAUX,
Notary public.

And your petitioner shews, that the principal consideration for making the said sale and assignment, and without which he would not have made any agreement with the said Lynch, was the promise and covenant contained in the said instrument that the said Charles Lynch would pay the several notes herein mentioned, and fulfil the several agreements entered into by your petitioner with the said Lauchois and Pitot and Joseph Faurie; and relying upon the said promises and covenants on the part of the said Charles Lynch, your petitioner made no preparation to discharge the said notes; but that, when the said several notes, payable on the twenty-first of June last, became due, he was obliged to pay and discharge the same at a very great loss of property, and has

now the said notes legally acquired ready to produce, as this honorable court shall direct; and that on the first of October now last past, the sum of fourteen thousand six hundred and sixty-five dollars twenty-seven cents, parcel of the said notes so agreed to be paid by the said Charles Lynch, also becoming due, he neglected to pay and discharge the same; and on the sixth day of October now last past, the sum of eight thousand and fifty dollars, other parcel of the said notes, also became due, and that the said Charles Lynch also neglected and refused to pay the same, or to indemnify your petitioner from the payment thereof; whereupon, the holders of the said notes have not only brought suits against your petitioner upon the same, but he has been exposed to the inconvenience and disgrace of seeing the said non-payment of the said notes publicly advertised in the newspaper of the city of New Orleans.

Inasmuch, therefore, as the said Charles Lynch has not complied with any of the stipulations or considerations on which the said contract of assignment was made to him as aforesaid, your petitioner prays that a certain James Johnson and Andrew Burke, of the city of New Orleans, merchants, who claim a title under the said Lynch to some part of the said premises, may be made parties to this suit, &c.; that the said contract, so entered into between him and your said petitioner, may be declared to be void; and that he may pay and allow such damages as to this honorable court shall seem just and reasonable; and that your said petitioner may enter again into all his rights upon the said premises as if the said contract with the said Lynch had not been made; and that in the mean time the said Lynch may be interdicted and enjoined from passing any deed, or making any conveyance whatever, of any interest in the said premises to any person whatever; and that your petitioner may have such other relief as the nature of his case may require.

May it please your honor to grant to your petitioner the usual process of summons; and your petitioner, &c.

(Signed) EDWARD LIVINGSTON.

Edw. Livingston, the above petitioner, being duly sworn, doth depose and say, that the several material facts set forth in the above case are true, and that the defendant lives, as he is informed and believes, in Shelby county, in the State of Kentucky.

(Signed) EDW. LIVINGSTON.

Sworn in open court, December 3d, 1805.

(Signed) S. W. SMITH.

Document A, annexed to petition.

Aujourd'hui, troisieme jour d'Avril, de l'année mil huit cent quatre, la vingt-huitième de l'independance Americaine, avant midi.

Pardevant nous, Pierre Pedesclaus, notaire public des Etats Unis d'Amèrique, à la Nouvelle Orleans, capitale de la Louisiane:

Furent presents le sieur Joseph Faurée, négociant en cette ville, y demeurant, paroisse de Saint Louis, stipulant au nom et comme fondé du pouvoir général du sieur Charles Pierre Etienne Wante, reçu devant nous, notaire, le vingt trois Juillet, mil huit cent un, et encore

comme fondé de celui du sieur David Williamson, négociant de Baltimore, reçu devant Samuel Sterret, notaire public au dit lieu, le treize Janvier, mil huit cent, les dits sieurs Wante et Williamson, tous deux créanciers du sieur Philippe Henry de Neret, Baron de Bastrop.

Les sieurs Lauthois et Pitot, négociant en cette ville, y demeurant, dite paroisse du St. Louis, stipulans comme créanciers du dit Baron de Bastrop, et de plus fondés de son pouvoir général, d'une part:

Et le sieur Edward Livingston, habitant ordinairement la ville de New York, licencier et lois, présentement en cette ville et paroisse, d'autre part:

Lesquels dits sieurs Faurie, Lauthois et Pitot, nous ont dit, savoir, le dit sieur Faurée, comme représentant les sieurs Wante et Williamson, créanciers de sommes considérables du sieur Baron de Bastrop, et le sieur Lauthois et Pitot, également ses créanciers, pouvant actionner séparément pour leurs droits respectifs, le dit sieur Baron de Bastrop, et occasionner par des poursuites partielles sa servise totale, ils se seraient determinés à s'unir d'interet et à transporter tous leurs titres et droits résultant tant de leurs pouvoirs, que de leurs créances particulieres au sieur Edward Livingston, ici présent, à l'effet par lui de les faire valoir pour son propre compte contre le dit Baron de Bastrop, sous tous leurs rapports de frais, dommages, et intérêts, avec la restriction néanmoins, que le présent transport ne pourra avoir d'exécution que sur la propriété du dit Baron de Bastrop dans le canton de Ouachita, seulement touts autres propriétés du dit sieur Baron de Bastrop, de quelque nature qu'elles puissent être en exceptées, condition expresse et sans laquelle ces présentes n'auraient eu lieu.

Lesquels titres de créances consistent premièrement dans un billet à ordre du sieur Baron de Bastrop, en date du quatorze de Septembre, de l'année mil sept cent quatre vingt dix huit, consentie en faveur du sieur David Williamson, négociant de Baltimore, payable à six mois de dâte de la somme de cinq mille neuf cents piastres et quatre vingt dix centimes de piastres, dans le protêt du dit billet fait à son échéance par maître Samuel Sterret, notaire public, à Baltimore, à la requête du sieur Williamson le sont l'egalement confirmé et autorisé par le pouvoir spécial donné par let dit sieur Williamson, le même jour devant le même notaire.

Secondement, une traite de monsieur le chevalier D'Arreinours sur monsieur le Baron de Bastrop, acceptée par ce dernier en faveur de la maison Lauthois, Pitot et compagnie, tirée le quinze Fevrier, mil huit cent, à dix jours de vue, de la somme de sept cent soixante trois piastres.

Troisiemement, un billet du dit sieur Baron de Bastrop et compagnie, consenti en faveur des dits sieurs Lauthois et Pitot, en date du quinze Mai, mil huit cent un, de la somme de quatre-mille quatre-cent trente piastres.

Et finalement, une obligation hypothécaire, consentie par le dit Baron de Bastrop en faveur du sieur Wante, du quinze Mai, mil huit cent un, devant nous, notaire, sur tous les biens en général, de la somme de

quarante cinq mille piastres, gourdes, cinq escalins et demi pour valeur, de deux comptes réglés entre le dit sieur Wante et le dit sieur Baron de Bastrop, le premier le douze Mai, de l'année mil huit cent un, de la somme de huit mille six cent quatre-vingt huit piastres, six escalins et demi; le second du trente Avril, du dit an, de la somme de trente-six mille quatre-cent deux piastres, et sept escalins, et au payment desquelles sommes, formant un total celle de quarante-cinq mille quartre-vingt onze piastres, cinq escalins et demi, le dit sieur Baron de Bastrop a spécialement effecté et hypothéqué sa propriété de Ouachita, consistant en cent quarante quatre lieues de superficie, seule hypothéque dont cette concession soit grevée, ce que je certifie moi, notaire, annotateur quant à l'hypothéque.

Toutes lesquelles sommes réunies forment en totalité celle de cinquante six mille cent quartre-vingt cinq piastres quatre escalins et demi, due aux dits sieur Faurée Lauthois, et Pitot, non compris les intérêts ainsi qu'ils en ont justifié par la présentation qu'ils ont faite de leurs titres respectifs, en présence de nous, notaire soussigné.

Lequel transport de leurs droits ci dessus specifiés ils ont fait à faveur du dit sieur Edward Livingston, ce acceptant moyennant la somme de soixante-six mille trois cent dix piastres et cinq escalins, payable dans ses billets aux époques ci-après determinées dans le mode qui suit.

Premiérement, dans un billet-à-ordre du sieur Joseph Faurie, de la somme de trois mille quatre cent quatre-vingt-une piastres, payable dans un an de ce jour.

Dans un autre billet, faveur du dit sieur Faurie, payable à pareille époque, de la somme de dix mille sept cent vingt-huit piastres.

Dans un autre billet, en faveur de Lauthois et Pitot, payable à la même époque, de la somme de trois mille cinq cent vingt-quatre piastres. Total du premier payment dix sept mille sept cent trente-trois piastres.

Secondement, dans un autre billet-à-ordre du dit sieur Joseph Faurie, de la somme de trois mille quatre cent quatre-vingt-une piastres, payables dans deux ans à compter de ce jour.

Dans un autre billet, faveur du dit sieur Joseph Faurie, de la somme de dix mille six cent vingt piastres, payable à la même époque.

Dans un autre billet, en faveur des sieurs Lauthois et Pitot, de la somme de dix mille six cent seize piastres, à la même époque.

Total du second payment, seize mille sept cent dix-sept piastres.

Quant au surplus de la dite somme principale ci dessus fixés à soixante-six mille trois cent dix piastres et cinq escalins, formant un reliquat de trente-un mille huit cent soixante piastres et cinq escalins, elle sera payée par le dit sieur Edward Livingston, dans trois billets, chacun de la somme de dix mille six cent vingt piastres et vingt-un centimes de piastres, ordre du dit sieur Joseph Faurie, dont le premier sera payable fin de Mars, de l'année mil huit cent sept; le second fin de Mars, mil huit cent huit; et le troisiéme et dernier à pareille époque, de l'année mil huit cent neuf. Total des dits billets et obligations soixante six mille trois cent dix piastres cinq escalins.

Lesquels obligations ci-dessus spécifiées le dit sieur Edward Living-

ston a souscrit en présence de nous, notaire soussigné, et remises aux dits sieurs Faurie, Lauthois, et Pitot, qui les ont acceptées et consenties en faveur le transport de leurs créances sur le Baron de Bastrop, sous les réserves ci-après.

Savoir, est qu'un cas de non payment des billets souscrits par le dit sieur Edward Livingston, aux époques ci-dessus fixées, soit en général, soit en particulier, les dits sieurs Faurie et Lauthois et Pitot, conserveront le privilege intact, résultant de l'hypothéque demeure spécialement réservée pour garantir de leur remboursement respectifs et tel quel est énoncé dans l'obligation consentie en faveur du sieur Wante, transportées par ces présentés au dit sieur Edward Livingston par Joseph Faurie au dit non sans aucunement déroger à toute action reconnoitre et contraintre en raison du remboursement des obligations ci dessus consenties par le dit sieur Livingston en compensation des dommages et intérêts, s'obligeant le dit sieur Livingston dans le même terme à faire accepter à l'epoque du premier payment par des maisons de commerce respectables ses billets pour les autres termes à échoir.

Il a été également convenu entre les parties que dans le cas où le dit sieur Livingston, poursuivant Monsieur le Baron de Bastrop ce dernier offrirait de payer sur le champ le montant de son obligation hypothécaire tant en capital qu'intérêts et frais, ou qu'un concours de créanciers formé par le Baron de Bastrop lui accorderait un délai quelconque, le présent contrat deviendra nul, et le dit sieur Livingston en faisant faire les poursuites nécessaires pour le payment des autres obligations en deposera les fonds entre les mains de qui de droit, à fin et à mesure de leurs entries pour le compté et aux risques, périls, et fortunes du qui il appartiendra et percevra sur la totalité des recoursements qu'il opima une commission de cinq pour cent comme indemnité de ses faux frais.

Convenu également que dans le cas d'oppositions faites par aucuns des créanciers du Baron de Bastrop vraies ou supposées apporteraient une entrave aux poursuites de Monsieur Livingston, contre le dit sieur Baron de Bastrop, et tendraient á faire infirmer l'obligation hypothécaire du douze Mai, mil huit cent un, que les sieurs Joseph Faurie, Lauthois, et Pitot, communiqueront ou confieront se le cas le requiert au dit sieur Livingston non seulement sous les papiers qu'ils peuvent avoir relatifs à cet objet, mais encore ils se soumettront à faire venir du Kentucky, des piéces pour constater particuliérement la nullité des transactions qui ont pu avoir lieu entre le dit sieur Baron de Bastrop et Morehouse relativement à la concession du Ouachita.

Enfin dans le cas où contre toute espèce de probabilité l'obligation hypothecaire, la concession du sieur Baron de Bastrop du Ouachita et autres piéces susdites seraient déclarées nulles par les tribunaux, et le dit sieur Livingston débouté de sa demande en payment de la dite obligation, le présent contrat sera encore nul, et les sieurs Faurie, Lauthois, et Pitot, rentrant dans tous leurs droits respectifs par l'effet de la nullité du présent contrât n'auront à supporter aucune responsabilité en aucun des frais, faits tant pour raison du present transport que pour les

poursuites et diligences pratiqués par le dit sieur Livingston contre Monsieur le Baron de Bastrop.

Pour raison de diverses circonstances ci dessus mentionnées et à l'effet de remédier á toute espèce d'inconvéniens prevus ou à prévoir il a été convenu expressement que les sieurs Joseph Faurées, Lauthois et Pitot, ne feront point immédiatement l'emploi des billets souscrits á leur profit par le sieur Livingston, et qu'ils les conserveront en portefeuille l'espace de trois mois sans en faire aucun usage, et que dans les divers cas de nullités prévues et non prévues, dans le présent contrat, ils les remettront en contre valeur des droits dans lesquels ils rentreront, et dans le cas où le dit sieur Livingston aura fait usage du présent contrat avant les trois mois du ci-dessus stipulé pour l'émission de ses billets, les sieurs Faurie, Lauthois et Pitot, seront en droit d'en disposer sans attendre l'expiration de ce terme.

Et pour la pleine et entière exécution des présentes, et sous la responsabilité la plus formelle tant du payment des sommes y portées que des titres importants dont la remise a été faite au dit sieur Livingston, en présence de nous, notaire soussigné, après avoir été enrégistrées, signés et paraphés ne varietur, il s'est soumis et obligé quoiqu'il devienne acquéreur de tout ou partie de la concession de Monsieur le Baron de Bastrop au dit lieu du Ouachita ou simplement associe, de ne faire aucun arrangement à l'amiable ou de rigueur avec le dit Baron de Bastrop qui n'a pour case irrévocable l'acquit de toutes les obligations contenues dans ces présentes, faute de quoi Joseph Faurie, Lauthois, et Pitot sustient dans leurs droits respectifs contre Mr. le Baron de Bastrop et ses propriétés, acquerront les mêmes droits contre le sieur Livingston et dans le cas d'achat, d'intérets ou d'association avec le Baron de Bastrop, Lauthois, et Pitot, ainsi que David Williamson acquerront des droits hypothéques pour raison de leurs créances respectives sur les possessions du Baron de Bastrop au Ouachita, s'obligeant le dit sieur Livingston à ne jamais s'étayer contre la pleine exécution du présent acte, de quelque contradiction que ce soit entre les lois Françaises et Espagnoles, constamment observées dans cette province de la Louisiane et celles des Etats Unis d'Amérique.

Il a été également convenu par clause expresse et demiere que dans tous les titres qui seront transportés au dit sieur Livingston il sera spécifié que les transports seront faits aux termes du présent acte, auquel les parties n'entendent absolument déroger, ce qui a été accepté réciproquement, car ainsi le tout a été voula, consenti, stipulé, et accordé entre les parties à l'entretien de quoi elles se sont soumises et obligées avec tous et chacun leurs biens, meubles et immeubles, présent et à venir, renonçant à toutes choses à ce contraires, promettant ne jamais contrevenir dont acte et jugé de leur consentement.

Fait et passé en notre étude à la Nouvelle Orléans, le jour et an que dessus, en présence du sieur Pietre Derbigny, interprêté nommé par le gouvernement, qui en a fait lecture à haute et intelligible voix au dit sieur Livingston, en langue Anglaise et mot à mot; après laquelle lecture le dit sieur a déclaré qu'il acceptait et consentait le présent acte,

se soumettant à l'entière exécution des clauses qu'il contient, et a signé ainsi que le dit sieur Derbigny, les sieurs Joseph Faurie, Lauthois et Pitot. Jean Baptiste Ramizès et Joachim Lozano, témoins, en présence de nous, notaire.

La minute est signée, Edward Livingston, Lauthois et Pitot, Joseph Faurie, P. Derbigny, Joaquin Lozano, Jean Bapt. Ramirez, et de nous, notaire soussigné, en l'étude duquel elle est restée.

Order, 10*th December*, 1805.

EDWARD LIVINGSTON
vs.
CHARLES LYNCH.

On reading the petition and affidavit of the plaintiff, and on his motion, it is ordered, that James Brown, esq'r, be appointed defender for the said Lynch in this suit. That unless the said Charles Lynch, on or before the first day of March next, fully comply with the conditions and covenants, on his part to be kept and performed, which are contained in a certain agreement executed in the office of Peter Pedesclaux, dated the 29th January, 1805, between the said Charles Lynch and Edward Livingston, purporting to be a conveyance of all the rights of the said Edward Livingston to a certain tract of land at the post of Ouachita, commonly called Bastrop concession, or show good cause to the contrary, the said agreement shall be rescinded. And it is further ordered, that the said Charles Lynch be interdicted from making any conveyance whatever of any property or right which would have been vested in him by virtue of the said agreement, if he had made the payment and fulfilled the stipulations therein contained, and that this interdicted be signified to the several officers authorized to make conveyances, and published in two of the public newspapers, printed in this office.

Affidavit of publishing order, filed March 3d, 1806.

Notice.

At a session of the superior court of the Territory of Orleans, holden at the Principal, in the city of New Orleans, on the tenth day of December, 1805.

Present, the honorable John B. Prevost.

EDWARD LIVINGSTON
vs.
CHARLES LYNCH.

On reading the petition and affidavit of the plaintiff, and on his motion, it is ordered, that James Brown, esq'r, be appointed defender for the said Charles Lynch in this suit. That unless the said Charles Lynch on or before the first day of March next, fully comply with the conditions and covenants on his part to be kept and performed, which are contained in a certain agreement, executed in the office of Peter

Pedesclaux, dated the 29th of January, 1805, between the said Charles Lynch and the said Edward Livingston, purporting to be a conveyance of all the rights of the said Edward Livingston to a certain tract of land at the post of Ouachita, commonly called "Bastrop concession," or shew good cause to the contrary, the said agreement shall be rescinded. And it is further ordered, that the said Charles Lynch be interdicted from making any conveyance whatever of any property or right which would have been vested in him by virtue of the said agreement, if he had made the payment and fulfilled the stipulation therein contained, and that this interdict be signified to the several officers authorized to make conveyances, and published in two of the public newspapers printed in this city.

Extract from the minutes.

Signed, S. W. SMITH, *Clerk*.

December 4th.

Avis.

Dans une des séances de la cour supérieure du Territoire d'Orleans, tenue au principal de cette ville, le dixième jour de Decembre, 1805, la teneur ci-après fut présentée à l'honorable John B. Prévost.

EDWARD LIVINGSTON
vs.
CHARLES LYNCH.

Sur la lecture de la pétition le serment du demandeur et sa motion, il est ordonné, que Mr. James Brown, sera nommé pour cette cause défendeur du dit Charles Lynch, qu'à moins le dit Charles Lynch ne remplisse complètement le premier jour de Mars prochain, ou avant les conditions et conventions de sa part, qu'il s'est engagé d'exécuter, tenir, et remplir lesquelles conditions sont contenues dans un acte passé en l'étude de Pierre Pedesclaux en date du 29 Janvier, 1805, entre Charles Lynch et le dit Edward Livingston, lequel acte a pour objet de transporter tous les titres, droits et pretensions du dit Edward Livingston sur une certaine étendue de terre situés au poste Ouachita connue sous le nom de "propriété de Bastrop," ou que le dit Charles Lynch ait à donner bonne et suffisante preuve à ce contraire, alors les dites conditions et conventions seraient nulles et de nulle valeur. Et il est de plus ordonné que le dit Charles Lynch n'aura point le pouvoir de transporter, vendre, ou céder aucun titre ou droits sur la dite propriété, lesquels droits et titres lui eussent été reconnus bons s'il eut fait les payment et rempli les conditions de l'acte ci dessus mentionné.

Il est de plus ordonné que la présente interdiction sera transmise à tous les officiers chargés de faire les transports de droits ou transférer les propriétés et que le présent sera publie dans deux papiers publiés de cette ville.

Signé, S. W. SMITH, *Greffier*.

Extrait du régistre. 14 Decembre.

Claude Belungay, being duly sworn, saith that the above advertisements were inserted in the Telegraph on the 14th day of December last, and have continued in every paper since that day.

(Signed) BELUNGAY.

Sworn before me this first day of March, 1806.

(Signed) B. CENAS, *Justice of the peace.*

Affidavit filed March 3d, 1806.

At a session of the superior court of the Territory of Orleans, holden at the Principal, in the city of New Orleans, on the 10th of December, 1805.

Present, the honorable John B. Prevost.

EDWARD LIVINGSTON
vs.
CHARLES LYNCH.

On reading the petition and affidavit of the plaintiff, and on his motion, it is ordered that James Brown, esq., be appointed defender for the said Charles Lynch in this suit. That unless the said Charles Lynch, on or before the first Monday of March next, fully comply with the conditions and covenants, on his part to be kept and performed, which are contained in a certain agreement, executed in the office of Peter Pedesclaux, dated the 29th January, 1805, between the said Charles Lynch and the said Edward Livingston, purporting to be a conveyance of all the rights of the said Edward Livingston to a certain tract of land at the post of Ouachita, commonly called "Bastrop concession," or show good cause to the contrary the said agreement shall be rescinded. And it is further ordered, that the said Charles Lynch be interdicted from making any conveyance whatever of any property or right, which would have been vested in him by virtue of the said agreement, if he had made the payments and fulfilled the stipulations therein contained, and that this interdict be signified to the several officers authorized to make conveyance, and published in two of the newspapers printed in this city.

Extract from the minutes.

(Signed) S. W. SMITH, *Clerk.*

Thomas Anderson, being duly sworn, saith that the above advertisement was inserted in the Orleans Gazette on the fourteenth day of December last, and has been continued in every paper printed until the fifth day of February.

(Signed) THOS ANDERSON.

Sworn to before me this first day of March, 1806.

(Signed) JOHN WATKINS, *Mayor.*

Order.

EDWARD LIVINGSTON
vs.
CHARLES LYNCH. } March 3d, 1806.

On motion of the plaintiff, and on due proof being made of the publication of the order made in this case on the 10th day of December

last, it is ordered, adjudged, and decreed, that the contract set forth in the petition entered into between the said defendant and the plaintiff be annulled, cancelled, and rescinded, saving the rights of third persons.

Order.

EDWARD LIVINGSTON
vs.
CHAS. LYNCH, A. Burke, and J. Johnson. } 10th April, 1806.

Came on for trial as between the plaintiff and the defendants, Burke and Johnson. Mr. Johnson having disclaimed, his name was ordered to be struck out of the record.

Separate answer of A. Burke, filed 11th March, 1806.

SUPERIOR COURT.

The separate answer of Andrew Burke to the petition of Edward Livingston, esq.

This defendant, saving and reserving to himself, &c., for answer unto the petition aforesaid, or unto so much thereof as it is material for him to answer unto, he answered and says, that all and singular the matters and things in the said petition contained may be true as it is therein stated; but this defendant, further answering, says, that the said contract or argument made between the petition and a certain Charles Lynch, and in the said petition recited so far forth as relates to the sale and transfer of rights and property on the part of the petitioner, was a vested and not an executory contract.

That after the said rights and property were so transferred and sold to the said Charles Lynch, and became vested in him as aforesaid, this defendant, by virtue of a final judgment of this honorable court, to a large amount, acquired a lien upon all the real or immoveable property of the said Charles Lynch in the territory aforesaid; and, among the rest, upon the property sold and transferred to him by the petitioner as aforesaid.

That this defendant afterwards, having obtained a writ of fieri facias in order to execute his said judgment on the property of the said Charles Lynch, and being set to believe that, in consequence of the said contract or agreement, the said Charles Lynch was the true, rightful, and sole owner, and also in complete possession of the said property therein specified and sold to him, caused the same, after due notification of the said judgment to the said Charles Lynch, to be appraised, and so much thereof as would be necessary to satisfy said judgment to be seized and sold in manner and form as the law directs.

That upon such sale this defendant became himself purchaser of said undivided portion as aforesaid, and now holds it under a regular deed of the sheriff of the county of Ouachita.

Wherefore this defendant calls upon this honorable court to preserve to him his rights so acquired as aforesaid; and prays to be hence dismissed with his costs and charges in this behalf unjustly sustained.

(Signed) J. W. ALEXANDER,
For defendant.

Order—June 21, 1806.

EDWARD LIVINGSTON
vs.
ANDREW BURKE.

This cause was heard.

Judgment—Recorded Nov. 26, 1806.

The court having taken time to consider of their judgment in this case as relates to the claim made by the defendant, Andrew Burke, in his answer, to acres of land, parcel of the tract mentioned in the said petition, and of the commonly [called] Bastrop's concession, now orders, adjudges, and decrees, that the sale made by the sheriff of the county of Ouachita to the said Andrew Burke, dated the day of , the said acres of land, parcel of the said tract mentioned in the petition in the cause, so far forth as the same affects the rights of the petitioner, and no further, be set aside and annulled; and that the plaintiff be entitled to all such rights in the said land so conveyed by the said sheriff as he could have had if such conveyance had not been made, and that unencumbered by the judgment entered and signed in this court in favor of said Andrew Burke against the said Charles Lynch; which judgment is hereby declared to have no lien, nor to operate as any incumbrance, upon the land mentioned in the said petition, or any part thereof.

And it is further ordered, adjudged, and decreed, that the petitioner, Edward Livingston, pay to the defendant his costs, to be taxed of the execution taken out on the judgment *of* against the said Chs. Lynch; the costs of the said defendant in the present suit.

And it is further ordered, that the decree be recorded at the expense of the plaintiffs in the several notaries' offices of the city, in the clerk's office of the court of Ouachita.

Nov. 26, 1806.

(Signed) W. SPRIGG.

Order—29th Nov., 1806.

ANDREW BURKE
vs.
EDWARD LIVINGSTON.

This case came on again on a motion for a new hearing; ordered that the same be not granted.

STATE OF LOUISIANA,
Fifth district court of New Orleans.

I certify the foregoing to be true copies from the originals of records in my office.

Clerk's office, May 12th, 1848.

(Signed) JNO. BACON, [SEAL.]
Deputy clerk.

Document marked No. 1, being an act of sale by Charles Lynch to J. B. Rivière.

Aujourd'hui neuvième jour de Février de l'année mil huit cent cinq, la vingt-neuvième de l'indépendance Américaine, après-midi.

Pardevant nous Pierre Pédesclaux, notaire public des Etats Unis d'Amérique, à la Nelle. Orléans, capitale du territoire d'Orléans.

Fut présent le Sieur Jean Baptiste Rivière, habitant actuellement en cette ville.

Lequel a par ces présentes vendu, cédé, quitté et abandonné en toute propriété, et néanmoins sans aucune garantie de fait ny de droit, condition expresse et sans laquelle ces présentes n'auraient lieu.

Au Sieur Charles Lynch, habitant du comté de Shelby, dans l'Etat du Kentucky, actuellement en cette ville, cy-présent et acceptant, pour lui, ses hoirs ou ayant-causes.

Cinq billets chacun de la somme de cinq mille piastres, formant ensemble un capital de vingt-cinq mille piastres, gourdes poinçon Mexicain, consenti au profit du dit sieur vendeur par le Sieur Philippe Henri-Nont, Baron de Bastrop, habitant du Ouachita, les dits billets échecs depuis quatre années plus tous les avantages et charges résultant d'un acte sous signature privée en dâte du six Août, mil huit cent quatre, souscrit par le Sieur Baron de Bastrop d'une part, Sieur Alexandre Dupuy, avocat comme fondé de pouvoir du dit Sieur Rivière et le Sieur Livingston, d'autre part, duquel acte le vendeur s'oblige de remettre une expédition au dit sieur acquéreur qu'il met dès-à-présent en son lieu et place pour en faire tel usage que de droit au respect des parties obligées.

Et en échange des objets cy-dessus vendus, le dit Sieur Lynch cède et vend également par ces présentes et promet de livrer au dit Sieur Rivière ou tous autres ayant droit quarante-cinq mille arpens de terre de superficie dans la concession du dit Sieur Baron de Bastrop dont lui Sr. Lynch vient de faire l'acquisition, promettant de lui livrer la quantité de terre cy-dessus énoncée sitôt que lui Sieur Lynch sera mis en possession de la totalité ou partie de la dite concession située au poste du Ouachita.

Le Sieur Lynch s'engage et oblige de livrer les dits quarante-cinq mille arpens en un seul lot quarré à prendre sur le bayou Barthelemy à son entrée dans la dite concession et de telle manière à ce que le dit bayou sépare les dits quarante-cinq mille arpens en parties égales.

Il est convenu entre les parties qu'avant d'entrer en possession il sera préalablement fait estimation des dites terres et dans le cas où elles seraient estimées plus que les autres parties de la concession prises en masse une déduction sera faite sur la quantité cy-exprimée en raison de la qualité, et vice versa, s'il advenait qu'elles volussent moins, le nombre d'arpens sera augmenté dans la même proportion de manière que la valeur générale de la totalité de la concession sera la base sur laquelle on établira ces proportions.

M. s'oblige néanmoins le dit Sieur Lynch à livrer les dits quarante-

cinq mille arpens de terre que d'après avoir été mis en possession de tou e la partie de la ditte concession aux termes de ses contrats avec le Sieur Baron de Bastrop et le Sieur Livingston et Morehouse.

Renonce dès-à-présent le dit Sieur Lynch à toute espèce de repetition envers le dit Sieur Rivière dans le cas même ou par évènement, et ni pouvoir se faire payer par le Baron de Bastrop des vingt-cinq mille gourdes, dont les obligations lui sont cédées par le présent contrat, cette cession n'ayant lieu que pour éviter un procès considérable en raison des droits du dit Sieur Rivière sur la concession du Baron de Bastrop, les dits billets ne devant être remis au sieur acquéreur que lorsqu'il aura mis en possession le Sieur Rivière.

La présente cession faite, acceptée entre les parties aux clauses et conditions cy-dessus stipulées sans aucun retour de part et d'autre, lesquelles se sont soumises et obligées envers tous et chacuns leurs biens, meubles et immeubles, de les executée dans tout leur contenu, promettant n'y jamais contrevenir, renonçant à toutes choses à ce contraires dont acte requis et octroyé.

Le présent acte fait et passé en présence du Sieur Joachim Lozano requis pour interprête au Sieur Lynch les présentes en langue Anglaise, et encore en présence des Sieurs Jean Soulié et Ferdinand Percy, témoins à ce requis, qui ont signé ainsi que les parties et le susdit interprête en présence de nous, notaire soussigné.

Et après la clôture du présent les parties avant de signer le Sieur Lynch a déclaré que la concession du Sieur Baron de Bastrop était hypothéquée en faveur du Sieur Edouard Livingston pour la sureté de certains billets résultants de l'acte du vingt-quatre Janvier dernier reçu devant nous, et encore hypothéquée en faveur du Sieur Charles Etienne Pierre Wante, selon acte du quinze Mai, mil huit cent un, reçu devant nous.

Signé, JN. BTE. RIVIERE,
CHS. LYNCH,
JN. SOULIE,
JOAQN. LOZANO,
PERCY, JEUNE,
JN. BTE. RAMIREZ.
PIERRE PEDESCLAUX,
Not. Public.

Pour copie conforme à l'original resté en mon étude pour recours.
En foi de quoi j'ai signé les présentes auquelles j'ai apposé le sceau de mon office, Nouvelle Orléans, le 9 Mai, 1848.
[SEAL.] (Signé) LOUIS T. CAIRE.

Translation of the foregoing act of sale.

Translation of document No. 1, from the French, in the case of heirs of Callender *vs.* United States.

This day, the ninth of February, 18 hundred and five, and the twenty-ninth year of the independence of the United States of Ameri-

ca, afternoon, before me, Pierre Pedesclaux, notary public, of the United States of America, in New Orleans, capital of the territory of Orleans, personally appeared Mr. Jean Baptiste Rivière, residing now in this city, who, by these presents, has sold, ceded, and abandoned in all property—however without guaranty in fact nor in law, this condition is express, for without it this present sale would not take place—unto Mr. Charles Lynch, residing in Shelby county, State of Kentucky, now in this city, here present, accepting for him and his heirs, or those having claims, five promissory notes, each of the sum of five thousand dollars, making together a capital of twenty-five thousand dollars, Mexican coin, subscribed on behalf of the seller by Mr. Philippe Henry *Nont*, Baron de Bastrop, planter in Ouachita, said notes are due since four years; moreover all the charges and advantages resulting from an act under private signature, dated sixth August, eighteen hundred and four, subscribed by said Baron de Bastrop on one part, and Mr. Alexander Dupuy, attorney at law, as agent of Mr. Rivière and Mr. Livingston on the other part; of which act the seller binds himself to deliver a copy to the said purchaser, who, at this moment, he subrogates in his place and stead to do with said act such use as in law he has a right to do against the parties bounded.

And, in exchange of the objects above sold the said Mr. Lynch, cedes and sells equally by these presents, and binds himself to deliver to the said Mr. Rivière, or any others having right, forty-five thousand arpents of land in superficies in the concession of the said Baron de Bastrop, of which he, the said Mr. Lynch, has lately become the purchaser, promising to deliver unto him the quantity of land above described, as soon as he, the said Lynch, shall be put in possession of the whole or part of said concession situated at the post of Ouachita.

The said Lynch binds and obligates himself to deliver the said forty-five thousand arpents in a sole square lot, to be taken from bayou Barthelemy, at its beginning on the said concession, in such manner that the said bayou divides the forty-five thousand arpents in equal portions.

It is agreed between the parties that, before taking possession of said land, an estimate of said land will be made, and in case it will be evaluated more than the other parts of said concession taken in mass, a deduction will be made on the quantity above described in consideration of its quality, and vice versa if they were found of a less value. The number of arpents will be increased in the same proportion, so that the general value of the whole of the concession will form the basis upon which these propositions will be established.

The said Mr. Lynch, nevertheless, binds himself to deliver the said forty-five thousand arpents of land, after he would have been put in possession of all his portion of the said concession, on the terms of his contracts with the said Baron de Bastrop, Mr. Livingston & Maisonrouge.

The said Mr. Lynch renounces, now and forever, to all sort of claims against Mr. Rivière, in the event that the Baron de Bastrop should not pay him the twenty-five thousand dollars, according to the promissory notes which are transferred to him by *these* present contract; the said

contract having taken place in the sole view of avoiding a considerable suit at law by reason of the rights of Mr. Rivière on concession of the Baron of Bastrop, and the said promissory notes are to be delivered to the purchaser, but when he will put the said Mr. Rivière in possession of the land.

This present cession is done and accepted between the parties under the clauses and conditions above stipulated, without any recourse from each other of the parties who have bound all their property, moveable and immoveable, to the execution of the present contract, promising never to renounce nor infringe its contents—all of which act is required and granted.

The said act made and passed in the presence of Mr. Joachim Lozano, réquis, to translate the same to Mr. Lynch in the English language, and also in the presence of Messrs. Jean Soulié and Ferdinand Percy, witnesses to this required, who have signed with the parties and the interpreter in presence of the undersigned notary.

And after the present act being closed, and before the signature of the parties, the said Mr. Lynch has made known that the concession of Mr. Baron de Bastrop was mortgaged in favor of Mr. Livingston for security of certain promissory notes resulting from the act of twenty-fourth January last, received before me, and also was mortgaged in favor of Mr. Chs. Etienne Pierre Wante, according to an act of the fifteenth of May, one thousand eight hundred and one, received before me.

(Signed) JN. BTE. RIVIERE,
CHS. LYNCH,
JN. SOULIE,
JOAQN. LOZANO,
PERCY, JEUNE,
JN. BTE. RAMIREZ,
PIERRE PEDESCLAUX,
Notary public.

For copy conformable to the original remaining in my office.

In testimony whereof I have signed the presents, to which I have affixed the seal of my office.

New Orleans, ninth May, 1848.

(Signed) LOUIS T. CAIRE,
Notary public.

I certify the foregoing to be a true and faithful translation from the French of document No. 1.

(Signed) LS. DUVIGNEAUD,
U. S. Interpreter.

Act of sale of 10,000 *acres of land by Livingston to Blaize Cenas.*

Be it known, that on this thirtieth day of March, in the year of our Lord one thousand eight hundred and eight, and of the independence of the United States of America the thirty-second, before me, B. Van Pradelles, notary public in and for the city and county of Orleans, per-

sonally came and appeared Edward Livingston, esquire, of this city, counsellor at law, who, acting for himself, his heirs, executors, and administrators, did declare that he hath, and that by these presents he doth, for and in consideration of one dollar to him in hand paid, the receipt whereof he doth hereby acknowledge, grant, alien, bargain, sell, and convey, unto Blaize Cenas, esquire, of this city, and to his heirs, executors, administrators, and assigns, a certain tract of land situated in the county of Ouachita and Territory of Orleans, being part of a larger tract originally granted by the Spanish government to Henry Neering, *tot* Bastrop, containing ten thousand acres, and bounded, that is to say, to be laid off in a square, beginning in Moorhouse's lines, at the corner of the tract of five thousand acres conveyed by this appearer to John Hughes, esquire, and having one side on Moorhouse's line aforesaid joining and binding. To have and to hold the said ten thousand acres of land, the same being meant to be French arpens, with all and singular their appurtenances, unto the said Cenas, his heirs, executors, administrators, and assigns, forever. Provided, nevertheless, that if the said Edward Livingston, his executors or administrators, shall, on or before the thirtieth day of June next ensuing, pay unto the said Cenas, his heirs, executors, administrators or assigns, one thousand dollars, without farther delay or any defalcation, then, and in that case, these presents shall be null and void to all intents and purposes.

Done in my office, and in the presence of Isaac McKever and A. Benguerel, witnesses hereto required, the day date first above written.

Original signed.

EDW. LIVINGSTON,
B. VAN PRADELLES,
Notary public.

J. McKever,
A. Benguerel.

I hereby certify the foregoing to be a true copy of the original extant among the notarial records of the late B. Van Pradelles.

In faith whereof I grant these presents under my hand and seal of office, at the city of New Orleans, this fifteenth day of June, 1846.

Act of sale of 10,000 *acres of land by Edward Livingston to Blaize Cenas, 9th March*, 1809, *No.* 2.

Pardevant nous, Pierre François Simon Godefroy, dûment commissionné et autorisé notaire public pour la ville et paroisse de la Nouvelle Orléans y demeurant, et les témoins ci-après nommés.

Fut présent Mr. Edward Livingston, homme de loi demeurant en cette ville.

Lequel a dit et déclaré qu'il se désiste par ces présentes de la clause conditionelle insérée à son profit dans l'acte de vente qu'il a consenti en faveur de Monsieur Blaize Cénas, propriétaire et shérif de l'arrondissement de la villa et paroisse de la Nouvelle Orléans, au rapport de feu Mr. Van Pradelles, notaire public en cette ville, le trente Mars, de l'année dernière mil-huit-cent-huit, d'une pièce de terre située au comté de Ouachita, dans le territoire d'Orléans, fesant partie d'une plus grande

pièce originairement concédée par le Gouvernement Espagnol à Henry Neering de Bastrop, contenant dix mille acres, se joignant et formant un quarré attenant à la ligne de Moorhouse et au coin d'une pièce de cinq mille acres cédée par le dit Sieur Livingston à Jean Hughes, et joignant la ligne du dit Moorhouse, avec toutes les autres dépendances de la dite pièce de terre pour le prix d'une piastre que Mr. Cenas lui a payé comptant.

" La dite clause conditionelle portant que dans le cas où le dit Sieur Livingston payerait au dit Sieur Cenas avant le trente Juin suivant, la somme de mille piastres, sans autre délai ni défalcation, la dite vente serait nulle et comme non avenu."

En conséquence Mr. Livingston consent que le dit acte de vente ci dessus daté et énoncé ait sa pleine et entière exécution en faveur de Mr. Cénas, et qu'il soit considéré comme propriétaire incommutable de la pièce de terre sus mentionnée telle qu'elle est désignée en l'acte précité, auquel il se référe entièrement, ainsi que pour le prix d'une piastre y porté, sans avoir égard à la dite clause conditionnelle qui à compter de ce jour demeur sans effet ; dont acte qui a été signé et accepté par Mr. Cenas également à ce présent, car ainsi promettant, obligeant, renonçant, &c.

Fait et passé à la Nouvelle Orléans en l'étude de nous, notaire, le neuvième jour du mois de Mars, de l'année mil-huit-cent-neuf, et la trente-troisième de l'indépendance Americaine, en présence des Sieurs Célestin Jean Leroux et Jean François Pinard, tous deux témoins requis et domiciliés en cette ville, qui ont, ainsi que les sieurs comparans, signé avec nous notaire, après lecture faite.

La minute est signée Edward Livingston, B. Cénas, C. T. Leroux, Pinard, et P. F. S. Godefroy, notaire public.

Je certifie la présente copie conforme à l'original resté entre mes mains. En foi de quoi j'ai apposé mon seing et le secau de mon office, à la Nouvelle Orléans, le vingt unième jour du mois de Mars, de l'année mil-huit-cent-neuf.

Signé, P. F. S. GODEFROY,
Notaire Public.

Translation of the foregoing document, No. 2.

Before me, Pierre Francois Simon Godefroy, duly commissioned and authorized, notary public for the city and parish of New Orleans, herein residing, and the witnesses hereinafter named, personally appeared Mr. Edward Livingston, attorney at law, residing in this city, who said and declared, that he does renounce by these presents, to the conditional clause inserted on his behalf in the act of sale assented by him, in favor of Mr. Blaize Cenas, freeholder, and sheriff for the city and parish of New Orleans, received before the late Mr. B. Van Pradelles, notary public in this city, the thirtieth of March, eighteen hundred and eight, of a piece of land situated in the county of Ouachita, in the Territory of Orleans, making part of a larger piece originally conceded by the Spanish government to Henry Neering de Bastrop, containing ten thou-

sand acres, adjoining and forming a square, bounded by the line of Moorhouse and by the corner of a tract of five thousand acres, ceded by the said Mr. Livingston to Jean Hughes, and joining the line of said Moorhouse, with all the other appendages belonging to said piece of land, for the sum of one dollar, which Mr. Cenas paid him cash.

"The said conditional clause purports, that in case that said Mr. Livingston shall pay to the said Mr. Cenas before the thirtieth June following the sum of one thousand dollars, without any delay nor defalcation, the said sale should be nulled and void."

In consequence thereof Mr. Livingston consents that the said act of sale above dated and expressed be in full force, and receive its entire execution, on behalf of Mr. Cenas; and that he may be considered as the true owner of the piece of land above mentioned, as it is described in the act of sale above cited, to which he entirely refers; and also for the price of one dollar, herein mentioned, without any regard to the conditional clause, which from this day is null and without effect. Of which act being signed and accepted by Mr. Cenas equally here present. For this promising, obliging, and renouncing, &c.

Done and passed in New Orleans, in the office of me, notary, the ninth day of the month of March, of the year eighteen hundred and nine, and the thirty-third year of the independence of America, in presence of Messrs. Celestin Jean Leroux and Jean Francois Pinard, both witnesses required and domiciliated in this city, who have, together with the parties, signed with me, notary, after reading being made.

The original is signed.

EDW. LIVINGSTON,
B. CENAS,
P. F. S. GODEFROY,
Notary public.

C. J. LEROUX,
PRIVARD.

I certify the following copy conformable to the original remaining in my hands. In testimony whereof I have signed the present, and affixed to it the seal of my office, at New Orleans, the twenty-ninth day of the month of March, of the year eighteen hundred and nine.

(Signed) P. F. S. GODEFROY,
Notary public.

I certify the foregoing to be a true and faithful translation from the French of document No. 2, filed in the case of Heirs of Callender vs. the United States.

(Signed) LS. DUVIGNEAUD,
U. S. Interpreter.

Sale by Vve. Rivière to Edw. Livingston, December 6, 1810, *No.* 3.

Aujourd'hui sixième jour du mois de Decembre, de l'année mil huit cent dix et la trente-cinquième de l'indépendance Américaine.

Pardevant nous Pierre Pedesclaux, notaire public des Etats Unis d'Amérique à la Nlle. Orleans.

Est comparue Dame Marie Réné Anne Donezan, executrice testamentaire de feu Sieur Jean Baptiste Rivière, son époux, et dûment autorisée par l'honorable Juge Moreau L'ilet en dâte du dix-sept Juillet, mil huit cent neuf, laquelle en la dite qualité nous a dit et déclaré que le douze Novembre dernier, elle aurait mis en vente à l'encan de Messrs. Dutillet et Peyrillade quarante-mille arpens de terre situés au Ouachita, dans le territoire de la Louisiane, bornés par les Sieurs André Dupuy, Nancarou, David Williamson, et Edward Livingston, lesquels quarante-mille arpens de terre, tels qu'ils se poursuivent et comportent et conformément au plan qui nous a été exhibé, et que nous avons signé et paraphé ne varietur, ont été adjugés à Mr. Edouard Livingston, ci-présent et acceptant pour le prix et somme de mille six cents piastres, que la dite Dame Vve. Rivière déclare avoir reçu du dit sieur acquéreur avant la passation des présentes, et dont il lui eu donne quittance, au moyen de quoi elle a désisté et séparé la succession du dit feu Sieur Jean Baptiste Rivière, son époux, de touts droits de propriété sur les susdits quarante-mille arpens de terre en faveur du dit sieur acquéreur qu'elle en a saisi et revêtu pour par lui enjouir, faire, et disposer comme de chose à lui appartenant dès maintenant et à toujours, et en prendre possession quand bon lui semblera; car ainsi, etc., etc., dont acte.

Fait et passé en notre étude, à la Nelle. Orléans, le jour et an que dessus, en présence des Sieurs Phi. Pedesclaux et Rafaël Perdomo, témoins qui ont signé avec les parties et nous notaire.

(Signé) EDW. LIVINGSTON,
V. RIVIERE, née Donezan,
Exécutrice testamentaire.
PHI. PEDESCLAUX.
PIERRE PEDESCLAUX,
Not. Pub.

Pour copie conforme à l'original resté en mon étude pour recours.

En foi de quoi j'ai signé les présentes auxquelles j'ai apporté le sceau de mon office.

Nouvelle Orléans ce huit Mai, mil huit cent quarante-huit.

[L. S.] (Signé) LOUIS T. CAIRE,
Not. Pub.

Translation.

Translation from the French of Document No. 3, filed in the case of the Heirs of Callender vs. the United States.

This day, sixth of the month of December, of the year eighteen hundred and ten, and the thirty-fifth year of the American independence, before me, Pierre Pedesclaux, notary public of the United States of America, in New Orleans, personally appeared Mrs. Marie Réné Anne

Donezan, testamentary executrix of the late Mr. Jean Baptiste Rivière, her husband, and duly authorized by the honorable Judge Moreau Lislet, under date of seventeenth July, eighteen hundred and nine, who, in her aforesaid capacity, has said and declared to me, that on the twelfth November last she did expose for sale, by the ministry of Messrs. Dutillet & Peyrillade, forty thousand arpents of land, situated at Ouchita, in the Territory of Louisiana, bounded by Messrs. André Dupuy Nancaron, David Williamson, and Edward Livingston; which forty thousand arpents of land, as they stand, and agreeably to the plan which has been exhibited to me, and that I have signed and paraphed ne varietur, have been adjudged to Mr. Edward Livingston, here present and accepting, for the price and sum of sixteen hundred dollars; that said Mrs. Rivière declares having received from the said purchaser, and for which she gives him full discharge, and moreover she has desisted and separated from the succession of her said husband, Jean Baptiste Rivière, all the rights of the property which he had on the said forty thousand arpents in favor of the said purchaser, who she has seized of the same, for him to do, enjoy, and dispose, as a thing belonging to him, now and forever, and to take possession of the same whenever he thinks proper.

Done and passed in my office, in New Orleans, the day and year as above, in presence of Messrs. Phi. Pedesclaux and Raphael Perdomo, witnesses, who have signed with the parties and me, notary.

(Signed) EDW. LIVINGSTON,
V. RIVIERE, neé Donezan,
Testamentary executrix.
PHI. PEDESCLAUX,
PIERRE PEDESCLAUX,
Notary public.

For copy conformable to the original remaining in my office.

In testimony whereof I have signed these presents, to which I have affixed the seal of my office.

New Orleans, this eighth May, eighteen hundred and forty-eight.

(Signed) LOUIS T. CAIRE,
Notary public.

I certify the foregoing to be a true and faithful translation from the French of document No. 3, filed in the case of Heirs of Callender vs. United States.

(Signed) LS. DUVIGNEAUD,
U. S. Interpreter.

Sale of 40,000 *acres of land by Edward Livingston to Amory, Callender & Co., December 24th,* 1810.

On this twenty-fourth day of December, one thousand eight hundred and ten, before me, George T. Ross, notary public in and for the city of New Orleans, duly commissioned and qualified as such, personally came and appeared Edward Livingston, esq., counsellor at law, and William Nott, merchant, of the said city, one of the firm of Amory,

Callender & Co., acting for said firm, which said appearer, to wit, Edward Livingston, declared, that he had this day granted, bargained, sold, assigned, and set over, and doth by these presents grant, bargain, sell, assign, and set over, unto the aforesaid William Nott, acting for the said firm of Amory, Callender & Co., all that certain tract or parcel of land lying and being in the Ouachita settlement and Territory of Louisiana, which said tract of land was conveyed by act passed before Peter Pedesclaux, dated the sixth day of December of this present year, to the said Edward Livingston, esq., by Marie Anne Donzan, executrix of the late John Baptiste Rivière, reference thereto being had will more fully appear; and which said tract is bounded by the property of the following persons, viz., André Dupuy Nancaron, David Williamson, and Edward Livingston; to have and to hold the said tract of land, containing forty thousand acres, to them, the said Amory, Callender & Co., their heirs and assigns forever.

The present sale is made for and in consideration of two thousand four hundred dollars, lawful money of the United States, which the said Edward Livingston hereby acknowledges to have received in hand, and which sum he, the said Edward Livingston, hereby binds himself, his heirs, executors, and administrators, to refund and repay to the aforesaid Amory, Callender & Co., should they at any time hereafter be evicted or turned out of possession, or be deprived of the title given by the said Edward Livingston, by any person or persons whatsoever, which said tract or parcel of land is conformable with the annexed plan.

Done and passed at New Orleans, the day and year first written, in presence of Danl. Murgatroyd and Charles Génois, who, with the parties, have signed these presents, and me, notary.

DANL. MURGATROYD,
EDWARD LIVINGSTON,
CHARLES GENOIS,
AMORY, CALLENDER & CO.
By WM. NOTT.

In promissorum fidem, GEORGE T. ROSS, *Not. Pub.*

STATE OF LOUISIANA,
City and parish of New Orleans.

I do hereby certify the foregoing to be a true copy of the orignal act extant on the records of George T. Ross, in the archives; this reference approved *of* my predecessor, the late Carlile Pollock, now under my charge.

In faith thereof I grant these presents under my hand and the impress of my seal of office, at New Orleans, on the third day of June, in year of our Lord eighteen hundred and forty-six, and of the independence of the United States the seventieth.

(Signed) JOHN E. HOLLAND, *Not. pub.*

Purchase from Edward Livingston, of 40,000 *acres of land, by Amory, Callender & Co., December* 10, 1810.

STATE OF LOUISIANA, *City of New Orleans.*

On this 24th day of December, one thousand eight hundred and ten, before me, George T. Ross, notary public in and for the city of New Orleans, duly qualified and commissioned as such, personally came and appeared Edward Livingston, esq., counsellor at law, and William Nott, merchant, of the said city, one of the firm of Amory, Callender & Co., acting for the said firm; which said appearer, to wit, Edward Livingston, declared that he had this day granted, bargained, sold, assigned, set over, and doth by these presents grant, bargain, sell, assign, and set over, unto the aforesaid William Nott, acting for the said firm of Amory, Callender & Co., all that certain tract or parcel of land lying and being in the Ouachita settlement and Territory of Louisiana, which said tract of land was conveyed by act passed before Peter Pedesclaux, dated the sixth day of December of this present year, to the said Edward Livingston, esq., by Marie Anne Donzan, executrix of the late John Baptiste Rivière, reference thereto being had will more fully appear; and which said tract is bounded by the property of the following persons, viz., André Dupuy Nancaron, David Williamson, and Edward Livingston; to have and to hold the said tract of land, containing forty thousand acres, to them, the said Amory, Callender & Co., their heirs and assigns, forever.

The present sale is made for and in consideration of the sum of two thousand four hundred dollars, lawful money of the United States, which the said Edward Livingston hereby acknowledges to have received in hand, and which sum he, the said Edward Livingston, hereby binds himself, his heirs, executors, and administrators, to refund and repay to the aforesaid Amory, Callender & Co., should they at any time hereafter be evicted or turned out of possession, or be deprived of the title given by the said Edward Livingston, by any person or persons whatsoever; which said tract or parcel of land is conformable with the annexed plan.

Done and passed at New Orleans, the day and year first written, in presence of Daniel Murgatroyd and Charles Génois, who, with the parties, have signed these presents, and me, notary.

(Signed) EDWARD LIVINGSTON,
AMORY CALLENDER & Co.
By WM. NOTT.
DANIEL MURGATROYD,
CHARLES GENOIS.

In promissorum fidem.
(Signed) GEO. T. ROSS, *Not. Pub.*

I, Carlisle Pollock, a notary public in and for the city of New Orleans, duly commissioned, do hereby certify the foregoing to be a true copy of the original act on the records (deposited in my office) of George T. Ross, notary public, deceased, in this city.

In faith whereof I grant these presents under my signature and seal of office, at New Orleans, this twenty-third of September, 1830.

(Signed) CARLISLE POLLOCK, *Not. Pub.*

Certificate annexed to the foregoing act of sale.

UNITED STATES OF AMERICA,
[SEAL.] *State of Louisiana:*

By Edward D. White, governor of the State of Louisiana.

These are to certify, that Carlisle Pollock, whose name is subscribed to the instrument of writing herein annexed, was, at the time of signing the same, and is now, a notary public in and for the parish and city of New Orleans, and that all his official acts as such are entitled to full faith and credit.

Given at New Orleans, under my hand and seal of the State, this twenty-first day of March, one thousand eight hundred and thirty-six, and of the independence of the United States the sixtieth.
[SEAL.]

(Signed) E. D. WHITE.

By the governor:
(Signed) MARTIN BLACHE,
Secretary of State.

Endorsement on the foregoing act.

STATE OF LOUISIANA,
Parish of Ouachita.

I, Lewis F. Lansy, parish judge in and for said parish and State, do hereby certify, that the foregoing and within deed is duly recorded in my office in notarial book Z, folio 189.

Given under my hand and seal of office, on this thirty-first day of May, A. D. 1836.

(Signed) LEWIS F. LANSY, *Judge.*

Sale of 10,000 *acres of land by Abraham Morehouse to Joshua Lewis & Columbus Lawson,* 14*th May,* 1813.

Be it known, that this day, before me, John Lynd, notary public in and for the city of New Orleans, personally appeared Abraham Morehouse, of Ouachita, who declared that he does, by these presents, grant, bargain, and sell, unto Columbus Lawson and Joshua Lewis, both of this city, esquires, their respective heirs and assigns, the full and entire of ten thousand acres of land, such as may be chosen and selected by the said C. Lawson and J. Lewis, or their agent or agents specially authorized, out of the lands now belonging to this appearer of the tract or parcel of land known as the "Baron de Bastrop's Grant," situated in Ouachita, and in such parcels as the said purchasers or their agents may *chuse*, and to be laid off in such form as they may direct, but so that no one parcel shall contain less than two thousand five hundred acres, and that the length of each parcel shall not be more than twice the extent of the breadth of the same; together with all the woods, ways, waters, water-courses, rights, privileges, and servitudes, and all the appurtenances thereunto belonging. To have and to hold the said

lands, so to be chosen, selected, and laid off, unto the said Columbus Lawson and Joshua Lewis, their respective heirs and assigns, to their proper use and behoof forever; and the said Abraham Morehouse, for himself and his heirs, doth hereby covenant, promise, and agree, to and with the said C. Lawson and J. Lewis, and their respective heirs, that he, the said A. Morehouse, is now the true and rightful owner of all and singular the lands so to be chosen and selected, and herein and hereby bargained and sold, and that he is seized in his own right of a good, sure, and indefeasible estate of and in all and singular the premises above mentioned, with the appurtenances, without any incumbrance or mortgage, except as hereinafter mentioned; and also that they, the said Columbus Lawson and Joshua Lewis, and their heirs and assigns, shall and may, at all times forever hereafter, peaceably and quietly have, possess, and enjoy, all and singular, the said lands with their appurtenances, without the lawful let, suit, trouble, or eviction of him, the said A. Morehouse and his heirs, or of any other person or persons whomsoever; and further, that he, the said A. Morehouse and his heirs, shall and will from time to time, and at all times hereafter, upon the reasonable request, and at the proper cost and charges of the said C. Lawson and J. Lewis, their heirs and assigns, make, do, and execute, or cause to be done, made, or executed, all and every other such further act and acts, conveyance and conveyances, for the further, better, and more perfect granting, confirming, and conveying all and singular the premises aforesaid unto the said C. Lawson and J. Lewis, their heirs and assigns forever as aforesaid, as they, their heirs or assigns, or their counsel learned in the law, shall be reasonably advised and required.

This sale is made for and in consideration of the sum of three thousand seven hundred and fifty dollars, of which the sum of five hundred dollars is to be paid in five months from the date hereof, and for which sum the said purchasers have granted a promissory note, the receipt whereof is hereby acknowledged, and the remainder in four equal annual payments; the first of which payments shall take place on the fourteenth day of May, which will be in the year one thousand eight hundred and fourteen, and the others to be made in regular order thereafter; for the which payments, well and truly to be made to the said A. Morehouse, his heirs or assigns, they, the said Columbus Lawson and Joshua Lewis, being here present and accepting this sale, bind themselves and their heirs; and, for the better securing the payment of the said sums in the manner aforesaid, they hereby oblige themselves and their heirs to execute a mortgage to the said A. Morehouse, his heirs or assigns, upon the said lands; with condition that, upon payment of the several sums above specified, release of said mortgage shall be given by the said A. Morehouse, his heirs and assigns, for the amount so paid, and on such parcel or parcels of the said land as the said purchasers may prefer, proportioning the quantity of land so released as the whole purchase money bears to the whole quantity of land purchased. And it is hereby declared, that the landed estate of the said A. Morehouse

now stands mortgaged and encumbered in the manner specified in the certificate of the conservator of mortgages for this State; which, for the greater safety of all persons concerned in this act, is attached to its margin by my notarial seal.

Thus done and passed at New Orleans, this fourteenth day of May, one thousand eight hundred and thirteen, in presence of Carlile Pollock and John Daublin, witnesses, who hereunto sign their names with the parties and me, notary.

Signed,

A. MOREHOUSE,
JOSHUA LEWIS,
COLUMBUS LAWSON,
JOHN DAUBLIN,
CARLILE POLLOCK,
JOHN LYND, *N. P.*

I certify the foregoing to be a true copy of the original act extant among the records of John Lynd, late a notary public in this city, for reference, and of whom I am the successor in office. In faith whereof I grant these presents, under my signature and seal of office, at New Orleans, this sixth day of April, eighteen hundred and forty-two.

(Signed) F. GRIMA, [SEAL.]
Notary public.

Partition between Nathaniel Amory, heirs of Wm. Nott, and heirs of Thos. Callender, 23d January, 1838.

CITY OF NEW ORLEANS, *State of Louisiana:*

On this twenty-third day of January, one thousand eight hundred and thirty-eight, in the city of New Orleans, before me, Jules Mossy, a notary public in and for said city, duly commissioned and sworn, personally appeared, having been by me duly convoked, the following parties, to wit, Nathaniel Amory, esquire, of Newport, in the State of Rhode Island, Madame Adèle F. Dannoy Nott, widow of the late William Nott, merchant of this city, deceased, and natural tutrix of her minor children, sole heirs, and with said widow sole legatees, of the said William Nott, their deceased parent, and the late lawful husband of said natural tutrix; also Charles F. Dannoy, under tutor of said minory; Jonathan Montgomery, executor of the last will and testament of said William Nott, deceased, being the only acting executor as aforesaid; also Frances Callender Slidell, wife of Thomas Slidell, of New Orleans, advocate, by her said husband herein duly assisted and authorized; the said Frances Callender Slidell, appearing as well in her own behalf as one of the heirs and legatees of the late Thomas Callender, deceased, as also in the capacity of the lawful agent of her brother, William Nott Callender, of her sisters Caroline and Elizabeth Callender, all of lawful age, and of her mother, Mrs. Anne M. Callender, tutrix of her minor children, Christopher Gore Callender and Star Stanhope Callender, and executor, sole acting, of the last will and testament of the said Thomas Callender, deceased, her late lawful husband:

Whereas lately, in the district court of the first judicial district of the State of Louisiana, the said Nathaniel Amory and the said widow, executrix, and heirs and legatees of said Thomas Callender, deceased, as plaintiffs, had instituted suit against the said widow, heirs, and legatees, and executor of the said William Nott, deceased, as defendants, bring suit, No. 15,128 of the records of said court, for the purpose of obtaining a judgment for the specific performance of a contract made by said William Nott, in his lifetime, with said plaintiffs for the survey and partition thereupon of certain lands, lying and being in Ouachita settlement, and late Territory of Louisiana, and which are more particularly described in a certain act of sale of said lands before George T. Ross, late notary of New Orleans, dated the twenty-fourth day of December, one thousand eight hundred and ten, executed by the late Edward Livingston to Messrs. Amory, Callender & Co., a partnership composed for equal portions in interest of the said Nathaniel Amory, Thomas Callender, and William Nott.

And whereas lately, to wit, on the day of January instant, a judgment was in said suit rendered in the words and figures following, to wit:

NATHANIEL AMORY and others,
vs.
THE WIDOW and Heirs of William Nott. } No. 15,128.

This cause came on to-day by consent for trial before the court; Thomas Slidell for plaintiffs, Pierce for defendants; when, after hearing testimony and argument of counsel, the court being satisfied of the truth of the plaintiffs' allegations in the petition, and that the plaintiffs are entitled to a specific performance, consummation of the partition of the property whereof the plaintiffs and defendants are joint owners; it is therefore ordered, adjudged, and decreed, that the contract of the said several parties concerning the division of the tract of land of 40,000 acres, purchased on the twenty-fourth December, 1810, by act, before George T. Ross, notary, of New Orleans, by Amory, Callender & Co., be ordered to be specifically executed; and it being proved to the satisfaction of court that the division of the said land into three parts, as evidenced by the survey on file and marked A, with the accompanying notes marked B, had been executed according to the said agreement and contract, it is hereby approved and recognised as the basis of partition, and the parties be referred to Jules Mossy, notary, to draw the lots so made according to law, and that, having so done, the said notary do return his procès verbal to this court without delay.

Judgment rendered 15 January, 1838.
Signed 19th January, 1838.

(Signed) A. M. BUCHANAN, *Judge*.
(Countersigned) JNO. L. LEWIS, *Clerk*.

Therefore I, the said notary, in the execution of the order to me in said judgment contained, and in presence of the said appearers and of the witnesses hereinafter named, did this day proceed to the due and le-

gal formation of the three lots, being numbered one, two, and three, corresponding to the numbers of the three portions laid, drawn, and indicated on the plan of survey, which by said judgment was declared the basis of this partition, and whereof, together with the field notes explanatory thereof, a faithful copy has been made by me, notary, and hereunto annexed for reference.

And having so formed the said lots, I, the said notary, so in the presence of said parties appearing, did, in due form and law, and with all requisite precision to the drawing of said lots, and thereupon said lots being drawn for agreeably to law, lot No. three being for the portion or tract No. three, containing 13,333 arpens, fell to the children and widow of the said William Nott, his only lawful heirs and legatees, being the defendants in said action; and lot No. one, being for the portion or tract No. one, was drawn for the said widow and children, sole heirs and legatees of the said Thomas Callender, plaintiffs in said cause; and lot No. two, being for the portion or tract number two, was drawn for the said Nathaniel Amory, the other party plaintiff.

And now all the appearers aforesaid, both for themselves and in their respective capacities aforesaid, having declared themselves fully contented and satisfied, I, the said notary, do now close this act and procès verbal, the parties appearing for themselves and in their respective capacities aforesaid, first signing these presents with, and in presence of, Jules Gervais Arnault and Charles Kennedy, lawful witnesses, domiciliated in this city, by me thereunto required, and me, notary, the day and year first above written.

(Signed) ADELE NOTT,
CHARLES F. DANNOY,
FRANCES CALLENDER SLIDELL,
THOMAS SLIDELL,
NOTT AMORY,
J. MONTGOMERY, *Ex. of Wm. Nott.*
C. C. KENNEDY,
J. G. ARNAULT, and
JULES MOSSY, *Not. Pub.*

A true copy of the original. New Orleans, June second, eighteen hundred and forty-six.

[SEAL.] (Signed) JULES MOSSY, *Not. Pub.*

Document A.—(Map.)

And afterwards, to wit, at a later hour on the eighteenth of May, A. D. 1848, the defendants, by their attorney, Thomas J. Durant, having accepted service of the foregoing amended petition and documents annexed thereto, appeared and filed in the clerk's office the following answer to said supplementary petition:

Answer to supplementary petition.

CALLENDER'S HEIRS
vs.
THE UNITED STATES.

To the honorable Theodore H. McCaleb, judge of the district court of the United States, for the district of Louisiana:

The answer of Thomas J. Durant, attorney of the United States for the district of Louisiana, to the supplementary bill of complaint and petition of the Heirs of Callender, complainants and petitioners.

The attorney of the United States aforesaid, now, and at all times hereafter, saving and reserving to himself and the United States all and all manner of benefit or advantage of exception which can or may be had or taken to the many errors, uncertainties, and other imperfections in the said complainants' said bill of complaint and petition contained, for answer thereto, or unto so much and such parts thereof as the United States are advised is or are material or necessary for them to make any answer unto:

The said attorney answering saith, that he is a stranger to the several matters and things in the said complainants' said bill of complaint and petition set forth and contained, of all of which he insists that the said petitioners should be held to full, complete, and strict proof.

And the said attorney further saith, that he claims such rights and interests under the treaties, statutes, and laws pertinent to this matter for and on behalf of the United States as this honorable court shall be of opinion that the United States aforesaid are justly entitled.

All of which matters and things the said attorney is ready and willing to aver, maintain, and prove to this honorable court as it shall direct, and thereupon humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

(Signed) THOMAS J. DURANT,
Attorney of the United States, for the district of Louisiana.

And afterwards, to wit, on the nineteenth of May, A. D. 1848, the following replication was, by the attorneys for plaintiffs, filed of record in the clerk's office:

Replication.

CALLENDER & al.
vs.
THE UNITED STATES. } No. 129.

These repliants, saving all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto say, that they will aver and prove their said petition, as amended, to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the defendants is uncertain, untrue, and insufficient, &c., &c.

All which matters and things these repliants are and will be ready to aver and prove as this honorable court shall direct, and respectfully pray as in and by their said petition they have already prayed.

(Signed) H. H. STRAWBRIDGE,
For Mary Amory.

(Signed) LS. JANIN, *of counsel.*

And afterwards, to wit, at a later hour on the 19th of May, A. D. 1848, the following entry was made of record:

Entry of Record.

CALLENDER & al.
vs.
THE UNITED STATES. } No. 129.

On motion of H. H. Strawbridge, esq., of solicitor for the claimants, it is ordered, that the depositions of witnesses residing in New Orleans, which depositions are to be used as evidence on the trial of this cause, be taken before N. R. Jennings, esq., U. S. commissioner, according to the sixth rule of this court in land causes, and that the United States district attorney be duly notified of the times and places of taking said depositions.

And afterwards, to wit, on the thirty-first of May, A. D. 1848, the following entry was made of record:

Entry of Record.

HEIRS OF CALLENDER
vs.
THE UNITED STATES. } No. 129.

By written consent of counsel for the plaintiffs and the defendants, this cause was to-day, upon the evidence filed and depositions taken, submitted to the court for its consideration.

Memorandum of evidence and submission of cause.

CALLENDER & al.
vs.
THE UNITED STATES. } No. 129, land docket, U. S. district court.

Note of evidence introduced on trial this 31st day of May, 1848:

1. All the depositions and documents used in the case of Mayor, Aldermen, and Inhabitants of Philadelphia and New Orleans, vs. the United States, (No. 21 of the land docket of this court,) on the trial before jury, as noted in the clerk's memorandum of evidence then taken down and now on file in said suit, are introduced in this cause by consent of parties.

2. Plaintiffs introduce document marked C, filed in said suit, No. 21, being plan of survey and partition of Bastrop's grant between Livingston and Morehouse.

3. Plaintiffs introduce copy of partition between Livingston and Morehouse, by act of 18th Sept., 1807, before Henry Bry, parish judge of Ouachita, being document marked E, on file in said suit, No. 21,

(introduced by consent of parties in lieu of the partition of 14th May, 1805.)

4. Plaintiffs introduce the several mesne conveyances and documents referred to and filed with their amended bill.

5. Plaintiffs introduce the depositions of R. D. Shepherd, F. L. Hawks, R. Relf, W. F. Babcock, P. W. Fauar, J. L. Lewis, S. Blossman, H. B. Cenas, and R. M. McNair, taken before the commissioner between the 23d and 29th May, 1848, inclusive.

6. Plaintiffs introduce copy of letters of tutorship to Eliza Magioni, tutor of the claimant Joshua Lewis, her minor son.

7. Plaintiffs introduce copy of letters testamentary to claimant Jonathan Montgomery, executor of Wm. Nott.

8. Plaintiffs introduce copy of last will and testament of Nathaniel Amory, and letters testamentary to claimant P. Amory.

CALLENDER & al.
vs.
THE UNITED STATES. } No. 129.

We submit this cause on the evidence and documents above referred to.

(Signed) THOMAS J. DURANT,
Attorney U. S. for La.

(Signed) H. H. STRAWBRIDGE,
For Mrs. Amory.

(Signed) LS. JANIN, *of counsel.*

Evidence.

Deposition of R. D. Shepherd.

CALLENDER et al.
vs
THE UNITED STATES. } No. 129.

May 23d, 1848, 5¼, P. M.

Before me, the undersigned, deputy clerk of the U. S. district court, authorized by the ninth rule of the court to act, in the absence of the clerk, as commissioner in taking testimony, in conformity with the 6th rule of practice in land suits in this court, this day appeared the plaintiffs and defendants, by their counsel; H. H. Strawbridge, for the plaintiffs, and Thos. J. Durant, esq., attorney for the defendants, in the above entitled cause.

Mr. Regin Davis Shepherd, on behalf of the plaintiffs, being duly sworn, states that he is 63 years of age; that he has been in New Orleans since 1802; that he is by profession a merchant and a planter; that he was intimately acquainted with Mr. Callender, who belonged to the firm of Amory, Callender & Co.; that Mr. Callender married Miss Anne Smith, below the city, about the year 1807 or 1808, at Judge Provost's house; that he knows the fact from having been at all the wedding parties, and, he thinks, at the ceremony of marriage itself.

On being shown the list of children contained in the supplemental and amended petition, Mr. Shepherd states that Elizabeth, Stanhope, Frances, and Caroline are known to him as children of the said marriage; but witness is not acquainted with Christopher; Frances is married to Thomas Slidell, (judge of supr. court;) Caroline to Edward Ogden, esq. Mr. Thomas Callender, the father, is dead; died, probably, little more than fifteen years ago, in New York.

Witness was acquainted with Mr. Nathaniel Amory; has known him very nearly fifty years; he was a member of the same firm as Mr. Callender, his partner. He is now dead; has been so from six to eight years, probably eight. Mr. Amory never had any children; his parents have been dead for many years; his father died fifty years ago, and his mother not quite so long; has left, he believes, no brothers nor sisters; he married Miss Preble; thinks her name was Mary; a niece of Commodore Preble; they were married about 40 years ago, in Boston; Mrs. Amory now resides part of the time in Newport, R. I., and part in Boston.

Witness knows Mr. William Nott; Mr. N. was of the same firm as Messrs. Callender & Co.; was taken in as a partner subsequently to the first establishment of the house. Mr. Nott is dead; died in 1837 or '38.

No cross questions by the district attorney.

(Signed) R. D. SHEPHERD.

I, Rob't M. Lusher, deputy clerk of the U. S. district court, duly empowered by the ninth rule of practice in land suits in the said court to act, in the absence of the clerk, as commissioner in taking testimony in the said suits, do hereby certify, that the foregoing is the deposition of R. D. Shepherd, a witness introduced by H. H. Strawbridge, esq., attorney for the plaintiffs; that the same was read over to him by me, and signed by him, as above, in my presence.

Witness my hand and seal, this 23d May, 1848.

(Signed) ROB'T M. LUSHER, [SEAL.]
Dep. Comm'r.
For N. R. JENNINGS,
Commissioner.

Depositions of Hawks, Relf, and Mrs. Drouillard.

HEIRS OF CALLENDER vs. THE UNITED STATES. } No. 129.

Clerk's office, May 23d, 1848.

Before me, the undersigned commissioner, appointed by the honorable the judge of the district court of the U. States for the district of Louisiana, to take testimony in land causes, appeared on this the 25th day of May, A. D. 1848, at 5 o'clock, P. M., the plaintiffs in the cause as above entitled, represented by their counsel, H. H. Straw-

bridge and Geo. W. Christy, esqrs., and the United States by the district attorney, Thos. J. Durant, when I proceeded to take the testimony of certain witnesses on behalf of the plaintiffs, to be used on the trial of said cause.

Deposition of Francis L. Hawks.

Francis L. Hawks, being duly sworn, states that he is regularly ordained minister of the Episcopal church, and at present rector of Christ church, New Orleans; states that he is acquainted with the reverend Dr. Onderdonk, formerly bishop of the Protestant Episcopal church in Pennsylvania; that he is familiar with the handwriting of the said Onderdonk; has often seen him write. Witness being shown document marked A, states that he recognises the signature thereto, as well as the writing of said document, to be the genuine signature and handwriting of said Onderdonk. In the year 1836, H. U. Onderdonk was the bishop of the Protestant Episcopal church of Pennsylvania. States that he was acquainted with the persons named in said document A referred to, to wit, Peter Cenas and Pauline St. Jean; and that Peter Cenas died about three years ago, about the month of April, 1845. Witness knows the fact that Peter Cenas left children, of whom witness personally knew one, named Augustus St. John.

No cross examination by the district attorney.

(Signed) FRANCIS L. HAWKS.

Document A.

I do hereby certify, that in this city, on the fifteenth day of August, 1836, I united in holy matrimony, Peter Cenas and Pauline St. Jean, and that the same is recorded in my register of marriages.

(Signed) H. U. ONDERDONK,

Bishop of Protestant Episcopal Church in Penn.

Philadelphia, May 19th, 1837.

Deposition of Richard Relf.

Richard Relf, being duly sworn, states that he is seventy years of age, and has lived in New Orleans about fifty-seven years. Witness knew Mr. Blaize Cenas; he has been dead many years.

Blaize Cenas married, as witness understood, Miss Baker, who is now the wife of Wm. Christy Hilary; Augustus and Peter were the sons of Blaize Cenas by his said wife.

No cross examination by the district attorney.

(Signed) RICHARD RELF.

Deposition of Mrs. Drouillard.

Maria Louisa Elizabeth Baker, widow of the late John Vincent Drouillard, being duly sworn, states that she was born in Philadelphia, and removed to the city of New Orleans about the year 1805 or '6; states that she was well acquinted with the late Blaize Cenas; that he married deponent's sister, Miss Catharine Pauline Baker; the marriage took place in the

city of Philadelphia, and to the best of her recollection about the year 1803; witness was present at the marriage; the name of the minister who performed the ceremony was, to the best recollection of witness, John Frederic Smith; states that Mr. Cenas aforesaid moved to the city of New Orleans about the year 1804; states there were five children, the issue of the said marriage, three boys and two girls—Pauline Louisa, Hilary Breton, Maria, Augustus Henry, and Peter. Blaize Cenas, to the best of her recollection, died about the year 1812; states that there are but two children of the said marriage now living, Hilary Breton and Augustus Henry; Pauline Louisa died at the age of one year, Maria at the age of seven, and Peter died about three years ago, in 1845.

Deponent states that at the time of Peter Cenas' death he was married, having married Miss Pauline St. Jean; he left four children at his death, Augustus St. John, Richard Brenen, Blanche, and George Christy.

No cross examination by the district attorney.

(Signed) L. E. DROUILLARD.

The examination of witnesses was here closed for the day, to be resumed hereafter.

I, N. R. Jennings, duly appointed commissioner to take testimony in land cases, do hereby certify, that the foregoing are the true depositions of Marie L. E. Drouillard, Richard Relf, and Francis S. Hawks, witnesses introduced by the plaintiffs, as taken down by me in writing in answer to questions propounded.

I further certify, that the said testimony was carefully read to each witness before signing, and that the same was signed in my presence.

[L. S.] In faith whereof I hereunto set my hand and seal, this twenty-fifth day of May, A. D. 1848.

(Signed) N. R. JENNINGS.
Commissioner.

Deposition of Wm. F. Babcock.

HEIRS OF CALLENDER vs. UNITED STATES. } No. 129—May 26th, 1848.

Before me, Robt. M. Lusher, deputy clerk of the U. S. district court, duly empowered by the ninth rule of practice in the said court in land causes to act, in the absence of the clerk, as commissioner for the taking of testimony in said causes, this day appeared the plaintiffs in the above entitled clause, by H. H. Strawbridge, esq., of their counsel, and introduced Wm. F. Babcock, esq., a witness on behalf of the plaintiffs. The district attorney being prevented by indisposition from appearing, the following testimony is taken subject to his approval or disapproval of the procedure herein.

Wm. F. Babcock, esq., being duly sworn, deposeth that he knows Mrs. Ann M. Callender; that he knows her children; the eldest is named Elizabeth; the other daughters are Frances, now Mrs. Thos.

Slidell, and Caroline, married to Edw. Ogden; the sons are William, Christopher Gore, and Stanhope Callender; Christopher was generally known by the name of Gore, and always thus wrote his name, "Gore Callender." Witness knew the last intimately; he died in 1846, about the month of June, on Mosquito coast; was never married; his father, Mr. Thos. Callender, is dead also. The family of Mrs. Callender lived in N. Y. until recently, at 65, Greenwich street.

(Signed) W. F. BABCOCK.

Signed in my presence,

(Signed) ROBT. M. LUSHER,
Acting commissioner.

I have no objection to the foregoing testimony of Babcock.

(Signed) THOMAS J. DURANT,
Attorney of the U. S. for La.

United States district court, clerk's office, May 27th, 1848.

I, Robert M. Lusher, acting as commissioner in land causes, under the ninth rule of practice adopted by the said court in land causes, do hereby certify, that (the latter half of) the foregoing contains the true and exact deposition of Wm. F. Babcock, a witness introduced by the plaintiffs in the cause entitled "The Heirs of Callender vs. The United States," which deposition was yesterday taken by me, and by the witness in my presence signed; that on this day the said deposition being exhibited to the U. S. district attorney, he, the said attorney, did write and sign the above waiver of any objection to the same.

Whereupon to the present validity of the taking of said testimony I [SEAL.] do now bear witness, with my hand and seal affixed, the day and year above mentioned.

(Signed) ROB'T M. LUSHER,
Act. commis'r in land causes.

Depositions of P. W. Farrar, J. L. Lewis, S. Blossman, and H. B. Cenas.

U. S. district court, clerk's office, May 27th, 1848.

HEIRS OF CALLENDER vs. THE UNITED STATES. } No. 129.

This 27th of May, A. D. 1848, at 5 o'clock, P. M., before me, the undersigned, deputy clerk of the U. S. district court, appeared by their attorneys, H. H. Strawbridge, esq., and Thos. J. Durant, esq., district attorney; and for the giving of testimony in the above entitled cause, the aforenamed attorney for the plaintiffs introduced Messrs. Preston W. Farrar, John L. Lewis, Samson Blossman, and H. B. Cenas, whose depositions I proceeded to take, as follows:

Deposition of Preston W. Farrar.

Preston W. Farrar, esq., a witness for the plaintiffs, being duly sworn, deposes that he has known Mary P. Lawson very well; that

she is married to a gentleman of the name of Bowman, and resides near Clarksville, Tenn. That witness was not personally acquainted with Mrs. Bowman's father, but from general reputation knows her to have been the daughter of John P. Lawson, and grand-daughter of Gen. Robert Lawson, said to be a gentleman of considerable distinction in Virginia, and of great eccentricity of character. Her mother was the sister of Andrew McClure, and was named Mary, witness thinks. The associations and connexions of Miss Lawson were of the best in Kentucky; she was the lawful and, witness thinks, the only child of her father, John, and her said mother, Mary. Mrs. Lawson, the mother, after the death of her husband, Mr. Lawson, married a Mr. Lawson McCullough, and was afterwards killed by lightning in a church at Lexington, Ky. Mr. John P. Lawson was dead before witness knew Mary P. Lawson. Miss Lawson, while a young girl, visited deponent's father's family, and would remain for a length of time with said family. General Rob't Lawson (father of Mr. Jno. Lawson) was, as witness knows from general reputation, the father also of Columbus Lawson, and, consequently, the brother of John Lawson.

No cross examination.

(Signed) PRESTON W. FARRAR.

Deposition of John L. Lewis.

Jno. L. Lewis, esq., a witness on the same part, being sworn, deposes that Mary Lawson was the daughter of John Lawson, his only child by marriage with Miss McCullough. Jno. P. Lawson died in the territory of Orleans, at Pointe Coupée, in 1809, leaving this girl as the only child by his marriage with Miss McCullough. Columbus Lawson was wounded on the 1st January, 1815, on the plains of Chalmette, and died a few days afterwards. Witness was with him till his death. He was the lawful brother of Jno. P. Lawson; died without issue; never married; his parents died before him.

No cross examination.

(Signed) JNO. L. LEWIS.

Deposition of Samson Blossman.

Samson Blossman, esq., for the plaintiffs, being sworn, deposes, that he knew the late Judge Joshua Lewis, who died about the year 1833; that he knows his handwriting from having frequently seen him write. On being shown the family bible of the Lewis family, a bible of the date of A. D. 1765, Oxford edition, and particularly the reverse of the title page of the New Testament, about the middle of said volume, containing the following entries:

(1) "Joshua Lewis was born the 26th of October, 1772, and married America Lawson the 23d of December, 1797, who was born the 22d day of January, 1778.

(2) "Sidonia Pierce Lewis, their daughter, was born the 22d day of October, 1798.

(3) "John Lawson Lewis was born the 26th day of March, 1800.
(4) "Louisa Maria Lewis was born the 17th October, 1801.
(5) "Theodore Lewis was born the 18th April, 1803.
(6) "Eliza Lewis was born 27th December, 1804.
"—— Lewis was born the 28th of March, 1807, early on Saturday morning, and departed this life on Sunday, 5th of April, at sunset, aged nine days. 'Suffer little children to come unto me, and forbid them not, for of such is the kingdom of God.'
"Alfred Lewis was born 29th day of September, 1808.
"Hampden and Sidney Lewis born 14th of September, 1810, at half past nine on Tuesday morning, at an interval of half an hour.
"George Washington Lewis was born the 24th March, 1814, on Thursday.
"Columbus Lawson Lewis was born 16th February, 1817, on Sunday, and departed this life May 19th, 1819, aged two years, three months, and three days.
Benjamin Franklin Lewis born October 20th, 1818, on Tuesday."

Witness states that the first six entries are in the handwriting of Judge Joshua Lewis, (the numbers 1, 2, 3, 4, 5, 6, in parenthesis, affixed by me, the undersigned commissioner;) that the writing is very old—apparently discolored by time; that the only one of the children now dead, who was known by him, witness, is Alfred, who married Eliza, widow of Philip Powers, named as a maiden Magioni; that Alfred left one child of said marriage, named Alfred Joshua, who is still a minor, 6 or 7 years of age. Witness knows personally all the other persons of the Lewis family, whose names are set forth in the petition in this cause, and has known them and their family for the last thirty years. Sidonia Lewis married Peter K. Wagner. They all reside in New Orleans.

No cross examination.

(Signed) S. BLOSSMAN.

Deposition of H. B. Cénas.

H. B. Cénas, esq., for the plaintiffs, being sworn, deposes, that he can and does corroborate fully all the testimony of the preceding witness, after having read the same; that, from the general recollection which he has of Mrs. Lewis's handwriting, he thinks and believes that the remaining entries in said family bible are in her handwriting; that Mrs. Lewis is now dead. She died about 1830 at Louisburg. She was the sister of Mr. Columbus Lawson, formerly clerk of the U. S. district court for this district, and who died about the year 1815 from a wound received on the plains of Chalmette. Witness believes that Columbus Lawson never was married.

No cross examination.

(Signed) H. B. CENAS.

I, Robt. M. Lusher, deputy clerk of the U. S. district court and acting commissioner in land causes, under the ninth rule of practice adopted by said court in said causes, do certify, that the foregoing pages contain the true and exact depositions of Preston W. Farrar, John L.

Lewis, Samson Blossman, and H. B. Cenas, witnesses introduced by H. H. Strawbridge, esq., on behalf of the plaintiffs in the land cause, entitled "Heirs of Callender *vs.* the U. States;" that the U. S. district attorney, being present on behalf of the defendants, propounded no cross questions to the witnesses; and that they, the said witnesses, after hearing said depositions as they stand above, read by me aloud, did in my presence respectively sign the same.

In testimony whereof I hereunto set my hand and seal, this twenty-seventh day of May, A. D. 1848, and the 72d year of American independence.

(Signed) ROBT. M. LUSHER, [SEAL.]
Deputy clerk of the U. S. district court, and acting commissioner in land causes.

Deposition of R. H. McNair.

CLERK'S OFFICE, *May 29th*, 1848.

HEIRS OF CALLENDER vs. THE UNITED STATES. } No. 129.

The plaintiffs and defendants in this cause this day appeared by their attorneys, H. H. Strawbridge, esq., for the former, and the United States district attorney for the latter, before me, the undersigned deputy clerk of the U. S. district court, and acting commissioner in land causes under the ninth rule of practice adopted by the said court in such causes, whereupon I proceeded, after due administration of the oath required, to take down as follows:

The testimony of Robt. H. McNair, a witness introduced on behalf of the plaintiffs.

Mr. Robt. H. McNair, a witness for the plaintiffs, being sworn, deposes, that the only knowledge he has of Genl. Lawson is by intercourse with his family; that he himself has but an indistinct recollection of the General, who, he understood, was a brigadier general under the orders of Maj. General Lafayette. His rank witness knows only from such information as a boy was apt to gain. Witness recollects his wife, his daughter, and two sons, very distinctly. One of the sons was Columbus Lawson, with whom witness went to school, and who was killed about the 23d of December, 1815, near New Orleans. The other son was called Jack or John Lawson, who died, witness thinks, at Pointe Coupée. His sister, America Lawson, (sister of Jack or John Lawson, and daughter of General Robt. Lawson,) became the wife of Judge Lewis. Witness does not know whether Jno. P. Lawson left any children; he has not seen the family for many years. They all came to this city with Judge Lewis about 1806.

Witness has this additional evidence of Gen. Lawson's rank as a military officer. When Lafayette visited New Orleans in 1826 or 1827, Mrs. America Lewis was introduced to him as the daughter of his old

friend Gen. Lawson; she then presented him with some general orders to her father, written on exceedingly bad and coarse paper; which orders were in Lafayette's own handwriting, and were then recognised by him. This witness knows from having been an eye witness of the introduction and ceremony of meeting.

No cross questions by the district attorney.

(Signed) ROBT. H. McNAIR.

I, Robt. M. Lusher, deputy clerk of the U. S. district court, and acting, under the ninth rule of practice in land causes in said court, as commissioner to take down in writing the testimony of witnesses introduced in such causes, do hereby certify, that the foregoing is the true and exact deposition of Robt. H. McNair, as taken down by me, on questions propounded to him by the attorney for the plaintiffs; that the same, after having been by me read over to him, was by him in my presence signed; and that there were no cross questions addressed to him by the attorney for the defendants.

In testimony whereof I hereunto set my hand and seal this twenty-ninth of May, A. D. 1848.

(Signed) ROBT. M. LUSHER. [SEAL.]

Dy. clerk of U. S. district court, and acting commissioner.

Letters of tutorship to Eliza Magioni.

THE STATE OF LOUISIANA,
Second district court of New Orleans.

This shall certify, to all whom it may concern, that on the thirteenth day of December, in the year of our Lord one thousand eight hundred and forty-two, and the 67th of the independence of the United States of America, an application was made to the honorable judge of the late probate court of New Orleans, by Mrs. Eliza Magioni, widow of the late Alfred Jefferson Lewis, and by first marriage of Philip Power, praying that she might be admitted to take her oath as natural tutrix of her minor son Joshua Lewis, issue of her marriage with the late Alfred Jefferson Lewis, deceased.

Now know ye, that the said Mrs. Widow Alfred Jefferson Lewis, has on the 17th day of February, 1843, taken her said oath as natural tutrix of said minor agreeably to law.

Witness our hands and the seal of the said second district court, this 20th day of May, in the year of our Lord one thousand eight [SEAL.] hundred and forty-eight, and the 72d of the independence of the United States of America.

(Signed) T. H. KENNEDY,
Judge of the third district court of New Orleans, acting for Judge Canon, absent.

(Signed) P. M. BERTIN, *Dy. clk.*

Letters testamentary to Jonathan Montgomery, executor of William Nott.

The State of Louisiana, to all to whom these presents shall come, greeting:

Whereas Jonathan Montgomery, named and appointed executor of the last will and testament of William Nott, deceased, has applied to the court of probates, in and for the parish and city of New Orleans, by petition, praying said court to grant letters testamentary thereon:

Now, know ye, that the said Jonathan Montgomery is hereby authorized and empowered to collect all the goods and effects which were of said William Nott, deceased, and to make a just inventory thereof, and all other lawful acts to do and perform as the executor of the said last will and testament.

Witness our hands and the seal of said court of probates, at the city of New Orleans, this twenty-fifth day of October, in the year of our Lord one thousand eight hundred and thirty-seven, and the sixty-second of the independence of the United States of America.

[SEAL.]

(Signed) J. BERMUDEZ, *Judge.*
(Signed) WM. F. C. DUPLESSIS, *Register of Wills.*

A true copy, clerk's office, second district court of N. Orleans, this 19th day of May, A. D. 1848.

(Signed) P. M. BERTIN, *D'y Cl'k.*

Copy of will of Nathaniel Amory.

Be it remembered, that I, Nathaniel Amory, of Watertown, in the county of Middlesex, and Commonwealth of Massachusetts, gentleman, do make this my last will and testament, as follows, that is to say:

I give, devise, and bequeath unto my beloved wife, Mary Amory, (the daughter of Ebenezer Preble, late of the city of Boston, esquire, deceased,) all the estate, real, personal, and mixed, of which I may die seized or possessed, or in or to which I may have right, title, or claim, wheresoever the same may be; to have and to hold the same to her, her heirs and assigns, forever. And I hereby nominate and appoint my said wife, Mary, sole executrix of this my will, and revoke all other wills by me at any time heretofore made.

Witness my hand and seal, this twenty-fourth day of November, in the year eighteen hundred and twenty-three.

NATH. AMORY. [SEAL.]

Signed, sealed, and published by Nathaniel Amory, the testator, as and for his last will, in the presence of us, who, at his request, in his presence, and in presence of each other, have hereunto set our hands as witnesses.

J. P. DAVIS,
JOHN T. BROWN,
W. D. SOHIER.

[L. S.] SUFFOLK, ss.,
Commonwealth of Massachusetts:

At a probate court, holden at Boston, within and for the county of Suffolk, on the twenty-eighth day of November, in the year 1842, by the honorable Willard Phillips, esquire, judge of the probate of wills, &c., the annexed will being presented by Mary Amory, of said Boston, widow, the executrix therein named, for probate, and the said Mary having given public notice, pursuant to my order, which is on file in said court, to all persons interested therein to appear here this day, and show cause, if any they have, either for or against the probate thereof; and no person appearing to object thereto, Isaac P. Davis, John C. Brown, and William D. Sohier appear and make oath, that they saw the said Nathaniel Amory sign, seal, and heard him publish the same instrument of his last will and testament; and that he was then, to the best of their discernment, of a sound disposing mind and memory; and that they subscribed their names thereto, as witnesses, in the presence of said testator and of each other. And I do prove, approve, and allow the same, and order it to be recorded.

Given under my hand and seal of office, the day and year above written.

WILLARD PHILLIPS,
Judge of probate.

Examined.

H. M. WILLIS, *Register.*

A true copy of record.
Attest:

H. M. WILLIS, *Register.*

Commonwealth of Massachusetts, by the honorable Edward G. Loring, esquire, judge of the court of probate, within and for the county of Suffolk, to all unto whom these presents shall come, greeting:

Whereas, at a probate court held at Boston, in said county, on Monday, the twenty-eighth day of November, in the year 1842, the will of Nathaniel Amory, late of said Boston, gentleman, deceased, to these presents annexed, was duly proved, approved, and allowed; who having, while he lived and at the time of his death, goods, chattels, rights, and credits, or estate, in the county aforesaid, the probate of the said will, and the power of committing administration upon the estate of said deceased, doth appertain unto the judge of said court.

Know ye, therefore, that I, Edward G. Loring, judge as aforesaid, by virtue of the power and authority in me vested by the laws of the said commonwealth, do hereby commit the execution of said will, and grant administration of all and singular the goods, chattels, rights, credits, and estate of the said deceased, in the commonwealth aforesaid, unto Mary Amory, of said Boston, widow, executrix in the same will named and appointed, well and faithfully to execute the same and to administer the said estate of the said deceased according thereunto, and in all things pursuant to law; and to direct the said executrix to

make a true and perfect inventory of all and singular the real estate, goods, chattels, rights, and credits of the said deceased, and to exhibit the same, upon oath, into the registry of the court of probate for said county of Suffolk within three months; and also to render a plain and true account of her proceedings thereon, upon oath, within one year from the date hereof.

In testimony whereof I have hereunto set my hand and the seal of the said court of probate. Dated at Boston the third day of April, in the year one thousand eight hundred and forty-eight.

(Signed) EDW. G. LORING,
Judge of probate.

[SEAL.] COMMONWEALTH OF MASSACHUSETTS,
Suffolk county:

The subscriber, register of the court of probate for said county, hereby certifies and attests, that on the twenty-eighth day of November, in the year one thousand eight hundred and forty-two, the will of Nathaniel Amory, late of Boston, in said county, gentleman, was proved, approved, and allowed; and that thereafterwards, to wit, on the third day of April, now current, Mary Amory, of said Boston, widow, was appointed executrix of the said will of said deceased, and became bound according to law for the faithful discharge of said trust, and that the papers hereto annexed are true copies of the said last will of said deceased and of the probate thereof, and also of the letter testamentary which was granted unto the said Mary on her assuming said trust, as on reference to the records and files in said court will more fully appear.

Given under my hand and the seal of said court, at Boston aforesaid, this third day of April, in the year one thousand eight hundred and forty-eight.

(Signed) H. M. WILLIS,
Register of the court of probate, Suffolk county.

[SEAL.] COMMONWEALTH OF MASSACHUSETTS,
Suffolk county:

Edward G. Loring, esquire, judge of the court of probate of wills and granting administrations within and for said county, hereby certifies, that Horatio M. Willis, esquire, is the register of the court of probate for the county of Suffolk aforesaid, and that full faith and credit may and ought to be given to the certificate and attestation by him before subscribed, and that the same is in due form.

Given under my hand and the seal of said court, at Boston, in said county, this third day of April, in the year one thousand eight hundred and forty-eight.

(Signed) EWD. G. LORING,
Judge of the said court of probate.

And afterwards, to wit, on the 7th of June, A. D. 1848, the following decree was rendered by the court and entered of record:

Decree.

CALLENDER & al.
vs.
THE UNITED STATES. } No. 129.

May term, 1848, United States district court, Wednesday, June 7th, 1848:

This cause came on to be heard at the May term of this court, and was argued by counsel, and thereupon, on an attentive consideration of the law and evidence, and the court being satisfied that the concession of land of twelve leagues square, situated on the waters of the river Ouachita and the bayous Bartholomew and Siard, in the province of Louisiana, made in the years 1796 and 1797, by the Baron de Carondelet, then governor general, &c., of said province, to the Baron de Bastrop, and commonly known as the "Bastrop grant," was a good, valid, and lawful grant to the said Baron de Bastrop, by a legal title, in form duly made by the competent authorities and officers of the Spanish government, and was protected and secured to him as his private property by the treaty between the United States and the French Republic, of the 30th April, 1803.

That the plaintiffs, claimants in this cause, have proved a good title in themselves to those portions of said "Bastrop grant" claimed in their petition, derived by various mesne conveyances from the original grantee and owner, the aforesaid Baron de Bastrop.

It is ordered, adjudged, and decreed, that Ann M. Callender, Elizabeth Callender, Stanhope Callender, Francis Callender, wife of Thomas Slidell, and Caroline Callender, wife of Edward Ogden, do recover from the defendants, the United States of North America, and be declared true and lawful owners of thirteen thousand three hundred and thirty (13,330) acres of land, acquired from Nathaniel Amory and the legal representatives of William Nott, by act of partition of 23d January, 1838, before Jules Mossy, notary public in and for the city of New Orleans, and forming one-third part of a tract of forty thousand acres, more or less, acquired by Nathaniel Amory, William Nott, and Thomas Callender, from Edward Livingston, by act of 24th December, 1810, before George T. Ross, notary public in and for the city of New Orleans, and situated in said "Bastrop grant."

That Jonathan Montgomery, in his capacity of executor of William Nott, do recover from the defendants, the United States of North America, and be declared true and lawful owner of thirteen thousand three hundred and thirty (13,330) acres of land, acquired from Nathaniel Amory and the heirs of Thomas Callender, by act of partition of 23d January, 1838, before Jules Mossy, notary public in and for the city of New Orleans, and forming one-third part of a tract of forty thousand acres, more or less, situated within said "Bastrop grant," and acquired by said William Nott, Nathaniel Amory, and Thomas Callender, from Edward Livingston, by act of 24th December, 1810, before George T. Ross, notary public in and for the city of New Orleans.

That Mary Preble Amory, sole heiress and universal legatee of Nathaniel Amory, do recover from the defendants, the United States of North America, and be declared true and lawful owner of thirteen thousand three hundred and thirty (13,330) acres of land, acquired from the legal representatives of William Nott and of Thomas Callender, by act of partition of the 23d of January, 1838, before Jules Mossy, notary public in and for the city of New Orleans, and forming one-third part of a tract of forty thousand acres, more or less, situated within said "Bastrop grant," and acquired by said Nathaniel Amory, William Nott, and Thomes Callender, from Edward Livingston, by act of 24th December, 1810, before George T. Ross, notary public in and for the city of New Orleans.

The whole of said forty thousand acres are hereby declared to belong to the aforesaid claimants.

That Sidonia Pierce Lewis, wife of Peter K. Wagner, John Lawson Lewis, Louisa Maria Lewis, Theodore Lewis, Algernon Sidney Lewis, George Washington Lewis, Benjamin Franklin Lewis, and Joshua Lewis, minor son of the late Alfred Jefferson Lewis, herein represented by his natural tutrix, Eliza Magioni, widow of said Alfred, all as heirs of the late Joshua Lewis and of America Lawson, his wife, and also Mary P. Lawson, wife of John Bowman, as one of the heirs of the late Columbus Lawson, do recover from the defendants, the United States of North America, and be declared true and lawful owners of ten thousand (10,000) acres of land, situated in said "Bastrop gant," and acquired by said late Joshua Lewis and Columbus Lawson, from Abraham Morehouse, by act of the 14th May, 1813, before John Lynd, notary public in and for the city of New Orleans.

That Catherine Pauline Baker, wife of William Christy, Hilary B. Cenas, Augustus Henry Cenas, and the minor children of Peter Cenas, viz: Augustus St. John Cenas, Richard Brenen Cenas, Blanche Cenas, and George Christy Cenas, herein represented by their natural tutrix, Catherine Pauline St. John, widow of said Peter, do recover from the defendants, the United States of North America, and be declared true and lawful owners of ten thousand (10,000) arpents of land, situated in said "Bastrop grant," acquired by their ancestor Blaize Cenas, from Edward Livingston, by act of 30th March, 1808, before B. Van Pradelles, notary public in and for the city of New Orleans; and of 9th March, 1809, before P. F. S. Godefroy, also notary public in and for said city.

It is further ordered, that said tracts of land be severally surveyed according to law, and that in case any portion thereof shall be found to have been sold by the United States, or otherwise disposed of, or if the same shall not have been heretofore located, it shall and may be optional and lawful for said plaintiffs to enter other lands, in accordance with the 11th section of the act of 26th May, 1824.

Judgment signed 12th June, 1848.

(Signed) THEO. H. McCALEB, [SEAL.]
U. S. Judge.

And afterwards, to wit, on the twenty-second of June, A. D. 1848, the following order was entered of record, at the May term, 1848:

Entry of Record.

THURSDAY, *June 22d*, 1848.

Present: Hon. Theo. H. McCaleb.

CALLENDER AND OTHERS
vs.
THE UNITED STATES.

District court, U. S., for Louisiana, May term, 1848.

On motion of Thomas J. Durant, attorney of the United States for the district of Louisiana, it is ordered by the court, that an appeal in this case be allowed to the Supreme Court of the United States at Washington, returnable to the next succeeding term thereof.

And afterwards, to wit, on the sixth of July, A. D. 1848, the following agreement was filed of record in the clerk's office:

Agreement.

CALLENDER AND AL.
vs.
THE UNITED STATES. } No. 129.

In the district court of the United States, for the district of Louisiana.

In this case it is agreed, that, in making up the record of appeal for the Supreme Court of the United States, only the documents actually filed with the petition or on trial shall be copied into the record. The documents and testimony used and on file in the suit of the "Mayor, Aldermen, and Inhabitants of New Orleans and Philadelphia vs. the United States," No. 21, of the land docket of this court, shall be used in said Supreme Court, as if actually copied into the record of this cause, and shall be held and taken as part thereof; the copying of the same into the record of the case being dispensed with by this agreement.

New Orleans, 29th June, 1848.

(Signed) H. H. STRAWBRIDGE,
Of counsel for plaintiffs.

(Signed) THOMAS J. DURANT,
Attorney of the United States for the district of Louisiana.

And afterwards, to wit, on the 8th of November, A. D. 1848, the following "order to amend the judgment" was entered, engrossed, and filed of record:

CALLENDER & ALS.
vs.
THE UNITED STATES. } No. 129.

WEDNESDAY, *November 8th*, 1848.

Present: Hon. Th. H. McCaleb.

On motion of H. H. Strawbridge, esq., of solicitors for claimants, showing that in the judgment herein rendered on the 7th of June,

1848, in favor of the heirs of Joshua Lewis and Columbus Lawson for 10,000 certain acres of land within the "Bastrop Grant," the names of Eliza Cornelia Lewis and of Alfred Hampden Lewis, two of said heirs, claimant and petitioners in this suit, have been omitted by a clerical error on his part; it is ordered that said judgment and decree be amended by inserting therein the names of said Eliza Cornelia Lewis and Alfred Hampden Lewis *nunc pro tunc*.

(Signed) THEO. H. McCALEB,
U. S. Judge.

Office of the clerk of the United States district court for the district of Louisiana.

I, Needler R. Jennings, clerk of the above entitled court, do hereby certify, that the foregoing one hundred and thirty-two pages form a true, faithful, and correct transcript of all the proceedings, process, pleadings, documents, and other matters on file of record in a certain case in chancery, wherein Callender and others are plaintiffs, and the United States of America are defendants, No. 129 of the docket of land causes of the said court.

In testimony whereof I have hereunto set my hand and caused to be affixed the seal of the said court, at the city of New Orleans, this fourteenth day of November, A. D. 1848, and of the independence of the United States of America the seventy-third year. [SEAL.]

N. R. JENNINGS, *Clerk*.

I, Theo. H. McCaleb, judge of the United States district court for the district of Louisiana, do hereby certify, that Needler R. Jennings, who subscribed the above certificate, is the clerk of the said court, and that full faith and credit are due and ought to be given to his attestations as such, and that the above is in due form of law.

Given under my hand and seal, this fourteenth day of November, A. D. 1848.

THEO. H. McCALEB. [SEAL.]

Citation of appeal.

The United States of America, to Callender et als., greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to an order of appeal filed in the clerk's office of the district court of the United States for the district of Louisiana, wherein the United States of America are appellants, and you are appellees; to show cause, if any there be, why the judgment rendered against the said appellants, and in your favor, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at New Orleans, this thirteenth day of September, in the year of our Lord one thousand eight hundred and forty-eight.

THEO. H. McCALEB, *U. S. Judge.*

Marshal's return.

Received September 13, 1848, and on the 22d instant served a copy of the within citation of appeal on L. Janin, esq., in person, in the city of New Orleans. Returned October 20th, 1848.

JOSEPH PRADOS, Jr.,
Dep. U. S. Marshal.

Filed 4th December, 1848.